

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 950
Second Edition Engrossed 5/18/89

Short Title: Increase Service of Process Fees.

(Public)

Sponsors: Representatives Hurley; Gibson, DeVane, and Greenwood.

Referred to: Judiciary.

March 29, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE FEE FOR SERVICE OF PROCESS IN CIVIL AND
3 CRIMINAL ACTIONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 7A-304(a) reads as rewritten:

6 "(a) In every criminal case in the superior or district court, wherein the defendant
7 is convicted, or enters a plea of guilty or **nolo contendere**, or when costs are assessed
8 against the prosecuting witness, the following costs shall be assessed and collected,
9 except that when the judgment imposes an active prison sentence, costs shall be
10 assessed and collected only when the judgment specifically so provides:

11 (1) For each arrest or personal service of criminal process, including
12 citations ~~and subpoenas,~~ but excluding subpoenas, the sum of ~~four~~
13 ~~dollars (\$4.00)~~ seven dollars (\$7.00), and for each subpoena served, the
14 sum of five dollars (\$5.00), to be remitted to the county wherein the
15 arrest was made or process was served, except that in those cases in
16 which the arrest was made or process served by a law-enforcement
17 officer employed by a municipality, the fee shall be paid to the
18 municipality employing the officer.

19 (2) For the use of the courtroom and related judicial facilities, the sum of
20 five dollars (\$5.00) in the district court, including cases before a
21 magistrate, and the sum of twenty-three dollars (\$23.00) in superior
22 court, to be remitted to the county in which the judgment is rendered.
23 In all cases where the judgment is rendered in facilities provided by a

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

20 (3) For the retirement and insurance benefits of both State and local
21 government law-enforcement officers, the sum of seven dollars and
22 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty
23 cents (50¢) of this sum shall be administered as is provided in Article
24 12C of Chapter 143 of the General Statutes. Five dollars and seventy-
25 five cents (\$5.75) of this sum shall be administered as is provided in
26 Article 12E of Chapter 143 of the General Statutes, with one dollar and
27 twenty-five cents (\$1.25) being administered in accordance with the
28 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall
29 be administered as is provided in Article 12F of Chapter 143 of the
30 General Statutes.

31 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-
32 five cents (75¢), to be remitted to the Department of Justice and
33 administered under the provisions of Article 12G of Chapter 143 of the
34 General Statutes.

35 (4) For support of the General Court of Justice, the sum of twenty-three
36 dollars (\$23.00) in the district court, including cases before a
37 magistrate, and the sum of thirty dollars (\$30.00) in the superior court,
38 to be remitted to the State Treasurer."

39 Sec. 2. G.S. 7A-311(a) reads as rewritten:

40 "(a) In a civil action or special proceeding, the following fees and commissions
41 shall be assessed, collected, and remitted to the county:

42 (1) a. Effective July 1, 1979, for every civil action filed on or after that
43 date, for each item of civil process, including summons, subpoenas,
44 notices, motions, orders, units and pleadings served, three dollars

1 (\$3.00). When two or more items of civil process are served
2 simultaneously on one party, only one three-dollar (\$3.00) fee shall be
3 charged. Effective July 1, ~~1981, 1989,~~ for every civil action filed on or
4 after that date, for each item of civil process, including summons,
5 ~~subpoenas,~~ notices, motions, orders, writs and pleadings served, but
6 excluding subpoenas, four dollars (\$4.00), the sum of seven dollars
7 (\$7.00), and for each subpoena served, the sum of five dollars (\$5.00).
8 When two or more items of civil process are served simultaneously on
9 one party, only one ~~four-dollar (\$4.00)~~ seven dollar (\$7.00) or one five
10 dollar (\$5.00) fee-fee, as appropriate, shall be charged.

11 b. When an item of civil process is served on two or more
12 persons or organizations, a separate service charge
13 shall be made for each person or organization. If the
14 process is served, or attempted to be served, by a city
15 policeman, the fee shall be remitted to the city rather
16 than the county. If the process is served, or attempted
17 to be served by the sheriff, the fee shall be remitted to
18 the county. This subsection shall not apply to service
19 of summons to jurors.

- 20 (2) For the seizure of personal property and its care after seizure, all
21 necessary expenses, in addition to any fees for service of process.
- 22 (3) For all sales by the sheriff of property, either real or personal, or for
23 funds collected by the sheriff under any judgment, five percent (5%)
24 on the first five hundred dollars (\$500.00), and two and one-half
25 percent (2 1/2%) on all sums over five hundred dollars (\$500.00), plus
26 necessary expenses of sale. Whenever an execution is issued to the
27 sheriff, and subsequently while the execution is in force and
28 outstanding, and after the sheriff has served or attempted to serve such
29 execution, the judgment, or any part thereof, is paid directly or
30 indirectly to the judgment creditor, the fee herein is payable to the
31 sheriff on the amount so paid. The judgment creditor shall be
32 responsible for collecting and paying all execution fees on amounts
33 paid directly to the judgment creditor.
- 34 (4) For execution of a judgment of ejectment, all necessary expenses, in
35 addition to any fees for service of process.
- 36 (5) For necessary transportation of individuals to or from State
37 institutions or another state, the same mileage and subsistence
38 allowances as are provided for State employees."

39 Sec. 3. This act shall become effective July 1, 1989, and shall apply to
40 process served on or after that date.