

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS35122-LLf-80* (3/11)

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 seven dollars and
 20 twenty-five cents (\$7.25), 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). One dollar
 27 (\$1.00) of this sum shall be administered as is provided in Article 12F
 28 of Chapter 143 of the General Statutes.

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

33 (4) For support of the General Court of Justice, the sum of seventy-five
 34 dollars (\$75.00) in the district court, including cases before a
 35 magistrate, and the sum of eighty-two dollars (\$82.00) in the superior
 36 court, to be remitted to the State Treasurer. For a person convicted of a
 37 felony in superior court who has made a first appearance in district
 38 court, both the district court and superior court fees shall be assessed.
 39 The State Treasurer shall remit ~~the sum of one dollar and five cents~~
 40 ~~(\$1.05)~~ a portion of each fee collected under this ~~subdivision~~
 41 subdivision, in an amount equal to that specified in the table below, to
 42 the North Carolina State Bar for the provision of services described in
 43 ~~G.S. 7A-474.4.~~ G.S. 7A-474.4:

44 Fiscal Year Amount

1	January 2002	
2	<u>through 2002-2003</u>	<u>\$1.05</u>
3	<u>2003-2004</u>	<u>2.00</u>
4	<u>2004-2005</u>	<u>3.00</u>
5	<u>2005-2006</u>	<u>4.00</u>
6	<u>2006-2007 and after</u>	<u>5.00.</u>

- 7 (5) For using pretrial release services, the district or superior court judge
8 shall, upon conviction, impose a fee of ~~fifteen dollars (\$15.00)~~ thirty
9 dollars (\$30.00) to be remitted to the county providing the pretrial
10 release services. This cost shall be assessed and collected only if the
11 defendant had been accepted and released to the supervision of the
12 agency providing the pretrial release services.
- 13 (6) For support of the General Court of Justice, for the issuance by the
14 clerk of a report to the Division of Motor Vehicles pursuant to G.S.
15 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State
16 Treasurer. Upon a showing to the court that the defendant failed to
17 appear because of an error or omission of a judicial official, a
18 prosecutor, or a law-enforcement officer, the court shall waive this fee.
- 19 (7) For the services of the State Bureau of Investigation laboratory
20 facilities, the district or superior court judge shall, upon conviction,
21 order payment of the sum of three hundred dollars (\$300.00) to be
22 remitted to the Department of Justice for support of the State Bureau
23 of Investigation. This cost shall be assessed only in cases in which, as
24 part of the investigation leading to the defendant's conviction, the
25 laboratories have performed DNA analysis of the crime, tests of bodily
26 fluids of the defendant for the presence of alcohol or controlled
27 substances, or analysis of any controlled substance possessed by the
28 defendant or the defendant's agent. The court may waive or reduce the
29 amount of the payment required by this subdivision upon a finding of
30 just cause to grant such a waiver or reduction."

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

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

- 35 (1) For the use of the courtroom and related judicial facilities, the sum of
36 ~~twelve dollars (\$12.00) in cases heard~~ seventeen dollars (\$17.00) in the
37 district court, including cases before a magistrate, and the sum of
38 ~~sixteen dollars (\$16.00) in district and~~ thirty-five dollars (\$35.00) in
39 the superior court, to be remitted to the county in which the judgment
40 is rendered, except that in all cases in which the judgment is rendered
41 in facilities provided by a municipality, the facilities fee shall be paid
42 to the municipality. Funds derived from the facilities fees shall be used
43 in the same manner, for the same purposes, and subject to the same
44 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 one dollar and five cents (\$1.05)~~ a portion of each fee collected under this ~~subdivision~~ 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.~~ G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>January 2002</u>	
<u>through 2002-2003</u>	<u>\$1.05</u>
<u>2003-2004</u>	<u>2.00</u>
<u>2004-2005</u>	<u>3.00</u>
<u>2005-2006</u>	<u>4.00</u>
<u>2006-2007 and after</u>	<u>5.00."</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 appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit ~~the sum of one dollar and five cents (\$1.05)~~ a portion of each ~~thirty dollar (\$30.00)~~ seventy-five-dollar (\$75.00) General Court of Justice fee collected under this ~~subdivision~~ 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.~~ G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
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1	<u>January 2002</u>	
2	<u>through 2002-2003</u>	<u>\$1.05</u>
3	<u>2003-2004</u>	<u>2.00</u>
4	<u>2004-2005</u>	<u>3.00</u>
5	<u>2005-2006</u>	<u>4.00</u>
6	<u>2006-2007 and after</u>	<u>5.00."</u>

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

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

- 12 (1) For the use of the courtroom and related judicial facilities, the sum of
 13 ~~ten dollars (\$10.00)~~, seventeen dollars (\$17.00), to be remitted to the
 14 county. Funds derived from the facilities fees shall be used in the same
 15 manner, for the same purposes, and subject to the same restrictions, as
 16 facilities fees assessed in criminal actions.
- 17 (2) For support of the General Court of Justice, the sum of ~~thirty dollars~~
 18 ~~(\$30.00)~~, seventy-five dollars (\$75.00), plus an additional forty cents
 19 (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of
 20 the gross estate, not to exceed three thousand dollars (\$3,000). Gross
 21 estate shall include the fair market value of all personalty when
 22 received, and all proceeds from the sale of realty coming into the
 23 hands of the fiduciary, but shall not include the value of realty. In
 24 collections of personal property by affidavit, the fee based on the gross
 25 estate shall be computed from the information in the final affidavit of
 26 collection made pursuant to G.S. 28A-25-3 and shall be paid when that
 27 affidavit is filed. In all other cases, this fee shall be computed from the
 28 information reported in the inventory and shall be paid when the
 29 inventory is filed with the clerk. If additional gross estate, including
 30 income, comes into the hands of the fiduciary after the filing of the
 31 inventory, the fee for such additional value shall be assessed and paid
 32 upon the filing of any account or report disclosing such additional
 33 value. For each filing the minimum fee shall be fifteen dollars
 34 (\$15.00). Sums collected under this subdivision shall be remitted to the
 35 State Treasurer. The State Treasurer shall remit ~~the sum of one dollar~~
 36 ~~and five cents (\$1.05)~~ a portion of each ~~thirty dollar (\$30.00)~~
 37 ~~seventy-five-dollar (\$75.00)~~ General Court of Justice fee collected
 38 under this subdivision ~~subdivision~~, in an amount equal to that specified
 39 in the table below, to the North Carolina State Bar for the provision of
 40 services described in ~~G.S. 7A-474.4.~~ G.S. 7A-474.4:

41	<u>Fiscal Year</u>	<u>Amount</u>
42	<u>January 2002</u>	
43	<u>through 2002-2003</u>	<u>\$1.05</u>
44	<u>2003-2004</u>	<u>2.00</u>

1	<u>2004-2005</u>	<u>3.00</u>
2	<u>2005-2006</u>	<u>4.00</u>
3	<u>2006-2007 and after</u>	<u>5.00.</u>

- 4 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty
5 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
6 gross estate, not to exceed three thousand dollars (\$3,000), shall not be
7 assessed on personalty received by a trust under a will when the estate
8 of the decedent was administered under Chapters 28 or 28A of the
9 General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be
10 assessed on the filing of each annual and final account.
- 11 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs
12 shall be assessed when the estate is administered or settled pursuant to
13 G.S. 28A-25-6.
- 14 (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty
15 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the
16 gross estate shall not be assessed on the gross estate of a trust that is
17 the subject of a proceeding under G.S. 36A-23.1 if there is no
18 requirement in the trust that accountings be filed with the clerk.
- 19 (3) For probate of a will without qualification of a personal representative,
20 the clerk shall assess a facilities fee as provided in subdivision (1) of
21 this subsection and shall assess for support of the General Court of
22 Justice, the sum of twenty dollars (\$20.00)."

23 **SECTION 5.** G.S. 7A-308(a) reads as rewritten:

24 "(a) The following miscellaneous fees and commissions shall be collected by the
25 clerk of superior court and remitted to the State for the support of the General Court of
26 Justice:

- 27 (1) Foreclosure under power of sale in deed of trust or
28 mortgage..... \$60.00
29 If the property is sold under the power of sale, an additional amount
30 will be charged, determined by the following formula: forty-five cents
31 (.45) per one hundred dollars (\$100.00), or major fraction thereof, of
32 the final sale price. If the amount determined by the formula is less
33 than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be
34 collected. If the amount determined by the formula is more than three
35 hundred dollars (\$300.00), a maximum three hundred dollar (\$300.00)
36 fee will be collected.
- 37 (2) Proceeding supplemental to execution..... 30.00
- 38 (3) Confession of judgment ~~22.50~~ 25.00
- 39 (4) Taking a deposition 10.00
- 40 (5) Execution..... ~~22.50~~ 25.00
- 41 (6) Notice of resumption of former name ~~7.50~~ 8.00
- 42 (7) Taking an acknowledgment or administering an oath,
43 or both, with or without seal, each certificate (except

1 that oaths of office shall be administered to public
2 officials without charge)..... ~~\$1.50~~ 2.00
3 (8) Bond, taking justification or approving..... ~~7.50~~ 8.00
4 (9) Certificate, under seal..... 3.00
5 (10) Exemplification of records ~~7.50~~ 8.00
6 (11) Recording or docketing (including indexing) any document
7 – first page6.00
8 – each additional page or fraction thereof25
9 (12) Preparation of copies
10 – first page ~~1.50~~ 2.00
11 – each additional page or fraction thereof25
12 (13) Preparation and docketing of transcript of judgment ~~7.50~~ 10.00
13 (14) Substitution of trustee in deed of trust ~~7.50~~ 10.00
14 (15) Execution of passport application – the amount allowed by
15 federal law
16 (16) Repealed by Session Laws 1989, c. 783, s. 2.
17 (17) Criminal record search except if search is requested by an
18 agency of the State or any of its political subdivisions or
19 by an agency of the United States or by a petitioner in a
20 proceeding under Article 2 of General Statutes Chapter 20 ~~7.50~~ 8.00
21 (18) Filing the affirmations, acknowledgments, agreements and
22 resulting orders entered into under the provisions of G.S.
23 110-132 and G.S. 110-1336.00
24 (19) Repealed by Session Laws 1989, c. 783, s. 3.
25 (20) Filing a motion to assert a right of access under G.S. 1-72.130.00."

26 **SECTION 6.** Section 1 of this act becomes effective July 1, 2003, and
27 applies to all costs assessed or collected on or after that date, except that in
28 misdemeanor or infraction cases disposed of on or after that date by written appearance,
29 waiver of trial or hearing, and plea of guilt or admission of responsibility pursuant to
30 G.S. 7A-180(4) or G.S. 7A-273(2), in which the citation or other criminal process was
31 issued before that date, the cost shall be the lesser of those specified in G.S. 7A-304(a),
32 as amended by Section 1 of this act, or those specified in the notice portion of the
33 defendant's or respondent's copy of the citation or other criminal process, if any costs
34 are specified in that notice. The remainder of this act becomes effective July 1, 2003,
35 and applies to fees assessed or collected on or after that date.