

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

2

HOUSE BILL 1544\*  
Committee Substitute Favorable 6/30/98

Short Title: Raise Court Fees.

(Public)

---

Sponsors:

---

Referred to:

---

May 27, 1998

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE PROCESS AND FACILITIES FEES IN THE  
3 GENERAL COURT OF JUSTICE.

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 is  
7 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 assessed  
10 and collected only when the judgment specifically so provides, and that no costs may be  
11 assessed when a case is dismissed.

12 (1) For each arrest or personal service of criminal process, including  
13 citations and subpoenas, the sum of ~~five dollars (\$5.00)~~, ten dollars  
14 (\$10.00), to be remitted to the county wherein the arrest was made or  
15 process was served, except that in those cases in which the arrest was  
16 made or process served by a law-enforcement officer employed by a  
17 municipality, the fee shall be paid to the municipality employing the  
18 officer.

- 1           (2) For the use of the courtroom and related judicial facilities, the sum of ~~six~~  
2 ~~dollars (\$6.00)~~ twelve dollars (\$12.00) in the district court, including  
3 cases before a magistrate, and the sum of ~~twenty-four dollars (\$24.00)~~  
4 thirty dollars (\$30.00) in superior court, to be remitted to the county in  
5 which the judgment is rendered. In all cases where the judgment is  
6 rendered in facilities provided by a municipality, the facilities fee shall  
7 be paid to the municipality. Funds derived from the facilities fees shall  
8 be used exclusively by the county or municipality for providing,  
9 maintaining, and constructing adequate courtroom and related judicial  
10 facilities, including: adequate space and furniture for judges, district  
11 attorneys, public defenders, magistrates, juries, and other court related  
12 personnel; office space, furniture and vaults for the clerk; jail and  
13 juvenile detention facilities; free parking for jurors; and a law library  
14 (including books) if one has heretofore been established or if the  
15 governing body hereafter decides to establish one. In the event the funds  
16 derived from the facilities fees exceed what is needed for these  
17 purposes, the county or municipality may, with the approval of the  
18 Administrative Officer of the Courts as to the amount, use any or all of  
19 the excess to retire outstanding indebtedness incurred in the construction  
20 of the facilities, or to reimburse the county or municipality for funds  
21 expended in constructing or renovating the facilities (without incurring  
22 any indebtedness) within a period of two years before or after the date a  
23 district court is established in such county, or to supplement the  
24 operations of the General Court of Justice in the county.
- 25           (3) For the retirement and insurance benefits of both State and local  
26 government law-enforcement officers, the sum of seven dollars and  
27 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty  
28 cents (50¢) of this sum shall be administered as is provided in Article  
29 12C of Chapter 143 of the General Statutes. Five dollars and seventy-  
30 five cents (\$5.75) of this sum shall be administered as is provided in  
31 Article 12E of Chapter 143 of the General Statutes, with one dollar and  
32 twenty-five cents (\$1.25) being administered in accordance with the  
33 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall  
34 be administered as is provided in Article 12F of Chapter 143 of the  
35 General Statutes.
- 36           (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-  
37 five cents (75¢) to be remitted to the Department of Justice and  
38 administered under the provisions of Article 12G of Chapter 143 of the  
39 General Statutes.
- 40           (4) For support of the General Court of Justice, the sum of sixty-one dollars  
41 (\$61.00) in the district court, including cases before a magistrate, and  
42 the sum of sixty-eight dollars (\$68.00) in the superior court, to be  
43 remitted to the State Treasurer.

1 (5) For using pretrial release services, the district or superior court judge  
2 shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be  
3 remitted to the county providing the pretrial release services. This cost  
4 shall be assessed and collected only if the defendant had been accepted  
5 and released to the supervision of the agency providing the pretrial  
6 release services.

7 (6) For support of the General Court of Justice, for the issuance by the clerk  
8 of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2,  
9 the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer.  
10 Upon a showing to the court that the defendant failed to appear because  
11 of an error or omission of a judicial official, a prosecutor, or a law-  
12 enforcement officer, the court shall waive this fee."

13 Section 2. G.S. 7A-305(a) reads as rewritten:

14 "(a) In every civil action in the superior or district court the following costs shall be  
15 assessed:

16 (1) For the use of the courtroom and related judicial facilities, the sum of ~~six~~  
17 ~~dollars (\$6.00)~~ twelve dollars (\$12.00) in cases heard before a magistrate,  
18 and the sum of ~~ten dollars (\$10.00)~~ sixteen dollars (\$16.00) in district and  
19 superior court, to be remitted to the county in which the judgment is  
20 rendered, except that in all cases in which the judgment is rendered in  
21 facilities provided by a municipality, the facilities fee shall be paid to  
22 the municipality. Funds derived from the facilities fees shall be used in  
23 the same manner, for the same purposes, and subject to the same  
24 restrictions, as facilities fees assessed in criminal actions.

25 (2) For support of the General Court of Justice, the sum of fifty-five dollars  
26 (\$55.00) in the superior court, and the sum of forty dollars (\$40.00) in  
27 the district court except that if the case is assigned to a magistrate the  
28 sum shall be twenty-eight dollars (\$28.00). Sums collected under this  
29 subsection shall be remitted to the State Treasurer."

30 Section 3. G.S. 7A-306(a) reads as rewritten:

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

33 (1) For the use of the courtroom and related judicial facilities, the sum of  
34 ~~four dollars (\$4.00)~~ ten dollars (\$10.00) to be remitted to the county.  
35 Funds derived from the facilities fees shall be used in the same manner,  
36 for the same purposes, and subject to the same restrictions, as facilities  
37 fees assessed in criminal actions.

38 (2) For support of the General Court of Justice the sum of twenty-six  
39 dollars (\$26.00). In addition, in proceedings involving land, except  
40 boundary disputes, if the fair market value of the land involved is over  
41 one hundred dollars (\$100.00), there shall be an additional sum of thirty  
42 cents (30¢) per one hundred dollars (\$100.00) of value, or major  
43 fraction thereof, not to exceed a maximum additional sum of two

1 hundred dollars (\$200.00). Fair market value is determined by the sale  
2 price if there is a sale, the appraiser's valuation if there is no sale, or the  
3 appraised value from the property tax records if there is neither a sale  
4 nor an appraiser's valuation. Sums collected under this subsection shall  
5 be remitted to the State Treasurer."

6 Section 4. G.S. 7A-307(a) reads as rewritten:

7 "(a) In the administration of the estates of decedents, minors, incompetents, of  
8 missing persons, and of trusts under wills and under powers of attorney, and in  
9 collections of personal property by affidavit, the following costs shall be assessed:

10 (1) For the use of the courtroom and related judicial facilities, the sum of  
11 ~~four dollars (\$4.00),~~ ten dollars (\$10.00), to be remitted to the county.  
12 Funds derived from the facilities fees shall be used in the same manner,  
13 for the same purposes, and subject to the same restrictions, as facilities  
14 fees assessed in criminal actions.

15 (2) For support of the General Court of Justice, the sum of twenty-six  
16 dollars (\$26.00), plus an additional forty cents (40¢) per one hundred  
17 dollars (\$100.00), or major fraction thereof, of the gross estate, not to  
18 exceed three thousand dollars (\$3,000). Gross estate shall include the  
19 fair market value of all personalty when received, and all proceeds from  
20 the sale of realty coming into the hands of the fiduciary, but shall not  
21 include the value of realty. In collections of personal property by  
22 affidavit, the fee based on the gross estate shall be computed from the  
23 information in the final affidavit of collection made pursuant to G.S.  
24 28A-25-3 and shall be paid when that affidavit is filed. In all other  
25 cases, this fee shall be computed from the information reported in the  
26 inventory and shall be paid when the inventory is filed with the clerk. If  
27 additional gross estate, including income, comes into the hands of the  
28 fiduciary after the filing of the inventory, the fee for such additional  
29 value shall be assessed and paid upon the filing of any account or report  
30 disclosing such additional value. For each filing the minimum fee shall  
31 be ten dollars (\$10.00). Sums collected under this subsection shall be  
32 remitted to the State Treasurer.

33 (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents  
34 (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross  
35 estate, not to exceed three thousand dollars (\$3,000), shall not be  
36 assessed on personalty received by a trust under a will when the estate  
37 of the decedent was administered under Chapters 28 or 28A of the  
38 General Statutes. Instead, a fee of fifteen dollars (\$15.00) shall be  
39 assessed on the filing of each annual and final account.

40 (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs  
41 shall be assessed when the estate is administered or settled pursuant to  
42 G.S. 28A-25-6.

- 1 (3) For probate of a will without qualification of a personal representative,  
2 the clerk shall assess a facilities fee as provided in subdivision (1) of  
3 this subsection and shall assess for support of the General Court of  
4 Justice, the sum of seventeen dollars (\$17.00)."

5 Section 5. G.S. 7A-311(a) reads as rewritten:

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

- 8 (1) a. ~~Effective October 1, 1990, for~~ For every civil action filed on or after  
9 that date, for each item of civil process, including summons, subpoenas,  
10 notices, motions, orders, writs and pleadings served, the sum of ~~five~~  
11 ~~dollars (\$5.00).~~ ten dollars (\$10.00). When two or more items of civil  
12 process are served simultaneously on one party, only one ~~five-dollar~~  
13 ~~(\$5.00)~~ ten dollar (\$10.00) fee shall be charged.

14 b. When an item of civil process is served on two or more persons  
15 or organizations, a separate service charge shall be made for each  
16 person or organization. If the process is served, or attempted to  
17 be served, by a city policeman, the fee shall be remitted to the  
18 city rather than the county. If the process is served, or attempted  
19 to be served by the sheriff, the fee shall be remitted to the county.

20 This subsection shall not apply to service of summons to jurors.

- 21 (2) For the seizure of personal property and its care after seizure, all  
22 necessary expenses, in addition to any fees for service of process.

- 23 (3) For all sales by the sheriff of property, either real or personal, or for  
24 funds collected by the sheriff under any judgment, five percent (5%) on  
25 the first five hundred dollars (\$500.00), and two and one-half percent (2  
26 1/2%) on all sums over five hundred dollars (\$500.00), plus necessary  
27 expenses of sale. Whenever an execution is issued to the sheriff, and  
28 subsequently while the execution is in force and outstanding, and after  
29 the sheriff has served or attempted to serve such execution, the  
30 judgment, or any part thereof, is paid directly or indirectly to the  
31 judgment creditor, the fee herein is payable to the sheriff on the amount  
32 so paid. The judgment creditor shall be responsible for collecting and  
33 paying all execution fees on amounts paid directly to the judgment  
34 creditor.

- 35 (4) For execution of a judgment of ejectment, all necessary expenses, in  
36 addition to any fees for service of process.

- 37 (5) For necessary transportation of individuals to or from State institutions  
38 or another state, the same mileage and subsistence allowances as are  
39 provided for State employees."

40 Section 6. This act becomes effective October 1, 1998, and applies to fees  
41 assessed or paid on or after that date.