

025772508

## SENATE BILL NO. 153

Senate Amendments in [ ] — January 21, 2002

A *BILL to amend and reenact §§ 8.01-600, 15.2-1605.1, 17.1-213, 17.1-232, 17.1-249, 17.1-275, 19.2-187, 19.2-270.4:1, 31-8.1, 32.1-267, 47.1-5, 55-66.4:2 and 64.1-94 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 17.1-219.1, relating to duties, responsibilities and procedures in circuit court clerks offices.*

Patron prior to Engrossment—Senator Norment

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 8.01-600, 15.2-1605.1, 17.1-213, 17.1-232, 17.1-249, 17.1-275, 19.2-187, 19.2-270.4:1, 31-8.1, 32.1-267, 47.1-5, 55-66.4:2 and 64.1-94 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 17.1-219.1, as follows:

§ 8.01-600. How money under control of court deposited; record kept; liability of clerk.

A. This section pertains only to money held by the clerk of the circuit court, when the court orders moneys to be held by the clerk pursuant to this section. The clerk shall have the duty, unless it is otherwise specially ordered, to receive, take charge of, hold or invest in such manner as the court orders and also to pay out or dispose of these moneys as the court orders or decrees. To this end, the clerk is authorized to verify, receive, and give acquittances for all such moneys as the court may direct.

B. Orders creating funds pursuant to this section or § 8.01-582 shall include information necessary to make prudent investment and disbursement decisions. The orders shall include, except when it is unreasonable, ~~(i) the beneficiary's social security number and date of birth and~~ (ii) the proposed dates of periodic and final disbursements. *Prior to the entry of the order, the beneficiary or his representative shall file an affidavit with the court providing the beneficiary's name, date of birth, address and social security number. The affidavit shall be maintained under seal by the clerk unless otherwise ordered by the court, and the information therein shall be used solely for the purposes of financial management and reporting.*

Unless otherwise ordered by the court, the provisions of this section shall not apply to:

1. Cash or other money received in lieu of surety on any bond posted in any civil or criminal case, including but not limited to bail bonds, appeal bonds in appeals from a district court or circuit court, bonds posted in connection with the filing of an attachment, detinue seizure or distress, suspending bonds, and performance bonds;

2. Cash or other money paid or deposited in the clerk's office prior to final disposition of the case, including but not limited to interpleaders or eminent domain; or

3. Cash or other money deposited in lieu of surety on any bond posted in the clerk's office which is not posted in connection with any civil or criminal case, including bonds posted by executors or administrators.

C. All deposits under this section shall be secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

D. Moneys held pursuant to this section shall be invested in certificates of deposit and time deposits, and in accordance with the provisions of Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 as ordered by the court.

E. Any interest which accrues on the funds, minus allowable fees and bond costs, shall be credited and payable to the person or persons entitled to receive such funds. The court may order the clerk to consolidate for investment purposes money received under this section, with income received hereunder to be apportioned among the several accounts.

F. Except as otherwise ordered by the court, for good cause shown, the clerk shall be liable for any loss of income which results from his (i) failure to invest the money within sixty days of the court order creating the fund or (ii) failure to pay out any money so ordered by the court within sixty days of the court order. He shall be charged with interest from the date of the court order until such investment or payment is made.

G. The clerk shall keep an accurate and particular account of all moneys received, invested, and paid out by him, showing the respective amounts to the credit of each case in the court and designating in the items the judgments, orders or decrees of court under which the respective sums have been received, invested or paid out. At least annually and no later than October 1 of each year, the clerk shall make a report to the court showing the balance to the credit of each case in the court in which money has been received by him, the manner in which money has been received by him, the manner in which it is

ENGROSSED

SB153E

59 invested, the amounts received, invested or paid out during the year ending June 30 of the current year,  
60 the approximate date on which the moneys held for the beneficiaries will become payable, and the  
61 whole amount then invested and subject to the future order of the court. A copy of this report shall be  
62 recorded in the trust fund order book. The clerk shall, at any time when required by the court or the  
63 Auditor of Public Accounts to do so, furnish a statement of the amount subject to the order of the court  
64 in any case pending therein and any other information required by the court or the Auditor of Public  
65 Accounts as to any money or other property under his control before the court. When the clerk receives  
66 funds under this section, he shall be entitled to receive fees in accordance with § 17.1-287 in the  
67 amounts as specified for general receivers in § 8.01-589.

68 H. All moneys received under this section are subject to audit by the Auditor of Public Accounts.

69 § 15.2-1605.1. Supplementing compensation of certain county and city officers and their employees.

70 Notwithstanding any other provision of law, the governing body of any county or city, in its  
71 discretion, may supplement the compensation of the sheriff, treasurer, commissioner of the revenue,  
72 director of finance, *clerk of the circuit court*, or attorney for the Commonwealth, or any of their deputies  
73 or employees, ~~or the deputies or employees of clerks of the circuit court~~, above the salary of any such  
74 officer, deputy or employee, in such amounts as it may deem expedient. Such additional compensation  
75 shall be wholly payable from the funds of any such county or city.

76 § 17.1-213. Disposition of papers in ended cases.

77 A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in  
78 hardcopy form, either in the locality served by the circuit court where such files originated or in The  
79 Library of Virginia in accordance with the provisions of §§ 42.1-83 and 42.1-86.

80 B. The following records for cases ending on or after January 1, 1913, may be destroyed in their  
81 entirety at the discretion of the clerk of each circuit court after having been retained for ten years after  
82 conclusion:

- 83 1. Conditional sales contracts;
- 84 2. Concealed weapons permit applications;
- 85 3. Minister appointments;
- 86 4. Petitions for appointment of trustee;
- 87 5. Name changes;
- 88 6. Nolle prosequi cases;
- 89 7. Law and chancery matters that are voluntarily dismissed, including nonsuits, cases that are  
90 dismissed as settled and agreed, cases that are dismissed with or without prejudice, cases that are  
91 discontinued or dismissed under § 8.01-335 and district court appeals dismissed under § 16.1-113 prior  
92 to 1988;
- 93 8. Misdemeanor and traffic cases, including those which were commenced on a felony charge but  
94 concluded as a misdemeanor;
- 95 9. Suits to enforce a lien;
- 96 10. Garnishments;
- 97 11. Executions except for those covered in § 8.01-484;
- 98 12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in  
99 the appropriate order book; and
- 100 13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving  
101 privileges.

102 C. All other records or cases ending on or after January 1, 1913, may be destroyed in their entirety  
103 at the discretion of the clerk of each circuit court subject to the following guidelines:

104 1. All civil and chancery case files to which subsection D does not pertain may be destroyed after  
105 twenty years from the court order date.

106 2. All criminal cases dismissed, including those not a true bill, acquittals and not guilty verdicts, may  
107 be destroyed after ten years from the court order date.

108 3. All criminal case files involving a felony conviction may be destroyed (i) after twenty years from  
109 the sentencing date or (ii) when the sentence term ends, whichever comes later.

110 D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk  
111 of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall  
112 be retained permanently as shall all cases in which the title to real estate is established, conveyed or  
113 condemned by an order or decree of the court. The final order for all cases in which the title to real  
114 estate is so affected shall include an appropriate notification thereof to the clerk.

115 E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all ended  
116 records, papers, or documents pertaining to law, chancery, and criminal cases which have been ended for  
117 a period of three years or longer, (ii) any unexecuted search warrants and affidavits for unexecuted  
118 search warrants, provided at least three years have passed since issued, ~~and~~ (iii) any abstracts of  
119 judgments, ~~and~~ (iv) *original wills*, to be destroyed if such records, papers, ~~or~~ documents, ~~or wills~~ no  
120 longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such

records, papers, or documents have been microfilmed. Such microfilm and microphotographic process and equipment shall meet state archival microfilm standards pursuant to § 42.1-82 and such microfilm shall be placed in conveniently accessible files and provisions made for examining and using same. The clerk shall further provide security negative microfilm copies of such ~~ended cases~~ *microfilmed materials* for storage in The Library of Virginia.

§ 17.1-219.1. *Transportation orders* [ ; *authorization for clerk to issue orders to custodian* ] . *At the discretion of the court, the clerk may execute orders for the transportation of prisoners on behalf of the court. [ In a criminal proceeding, upon authorization by the judge, the clerk of a circuit court may issue orders for commitment of the defendant or orders for release of the defendant to the appropriate custodian when the judge has ordered the defendant (i) to be committed to custody upon a denial of bail, upon a revocation of bail or upon a change in bail condition, (ii) to be continued in custody upon a continuance of the proceeding, or (iii) to be released upon meeting bail requirements, upon being sentenced to time already served or upon being found not guilty. ]*

§ 17.1-232. What to be recorded in judgment docket.

Abstracts of all judgments authorized or required by law to be docketed or recorded ~~and abstracts of all executions issued on any judgment~~ shall be recorded in a book to be known as the judgment docket.

§ 17.1-249. General indexes for clerks' offices; daily index.

A. There shall be kept in every clerk's office modern, family name or ledgerized alphabetical key-table general indexes to all deed books, miscellaneous liens, will books, judgment dockets and court order books. The clerk shall enter daily either in such general indexes or in the daily index to instruments admitted to record every deed, corrected or amended deed, deed of release, deed of trust, contract of sale, or any addendum or memorandum relating to any of these instruments, indexing each instrument in the names of all parties listed in the first clause of each instrument as required by §§ 55-48 and 55-58. Any clerk, deputy clerk, or employee of any clerk who so indexes any such instrument shall index any name appearing in the first clause of the original instrument.

B. A deed made to one or more trustees to secure the payment of an indebtedness, *and any certificate of satisfaction or certificate of partial satisfaction, assignment, loan modification agreement, substitution of trustees or similar instrument subsequently recorded with respect to such deed*, shall be sufficiently indexed if the clerk enters in the appropriate places in the general index to deeds provided for in subsection A the names of the grantor and the name of the beneficiary or, in lieu of the name of the beneficiary, the first listed trustee as grantee. The beneficiary need not be named in the first clause of the deed as a condition of recordation.

C. A deed made by a person in a representative capacity, or by devisees or coparceners, shall be indexed in the names of the grantors and grantees and the name of the former record title owner listed in the first clause of the instrument.

D. The general indexes of law and chancery causes shall be sufficiently kept if the clerk indexes such causes under the short style or title thereof, except that in multiple suits brought under § 58.1-3968, the names of all of the defendants disclosed by the pleadings shall be entered in the general index or book.

E. Every deed of conveyance of real estate in which a vendor's lien is reserved shall be double indexed so as to show not only the conveyance from the grantor to the grantee in the instrument, but also the reservation of the lien as if it were a grant of the same from the grantee to the grantor by a separate instrument and the fact of the lien shall be noted in the index.

F. All deed books, miscellaneous liens, will books, judgment dockets, and court order books shall be numbered or otherwise adequately designated and the clerk upon the delivery of any writing to him for record required by law to be recorded shall duly index it upon the general index in the manner hereinbefore required. When the writing has been actually transcribed on the book, the clerk shall add to the general index the number of the book in which, and the page on which, the writing is recorded.

G. The clerk on receipt of any such writing for record may immediately index it in a book to be known as the "daily index of instruments admitted to record" and within ninety days after its admission to record the clerk shall index all such writings indexed in the daily index in the appropriate general index as hereinbefore provided. The daily index book shall, at all times, be kept in the office of the clerk and conveniently available for examination by the public. During the period permitted for transfer from the daily index to the general index, indexing in the daily index shall be a sufficient compliance with the requirements of this section as to indexing.

H. The judge of any circuit court may make such orders as he deems advisable as to the time and method of indexing the order books in the clerk's office of the court and may dispense with a general index for order books of the court.

I. The clerk may maintain his indexes on computer, word processor, microfilm, microfiche, or other micrographic medium.

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

182 A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the  
183 following fees:

184 1. ~~When a writing is admitted to record under Chapter 2 (§ 17.1-200 et seq.) of this title, or Chapter~~  
185 ~~5 (§ 55-80 et seq.) or Chapter 6 (§ 55-106 et seq.) of Title 55, for everything relating to it, except the~~  
186 ~~recording in the proper book; for receiving proof of acknowledgments, entering orders, endorsing clerk's~~  
187 ~~certificate, and when required, embracing it in a list for the commissioner of the revenue, one dollar.~~

188 2. For recording and indexing in the proper book any writing and all matters therewith, or for  
189 recording and indexing anything not otherwise provided for, ~~fifteen sixteen~~ dollars for an instrument or  
190 document consisting of ten or fewer pages or sheets; thirty dollars for an instrument or document  
191 consisting of 11 ~~through to~~ 30 pages or sheets; and fifty dollars for an instrument or document  
192 consisting of 31 or more pages or sheets. ~~This fee shall be in addition to the fee for recording a deed or~~  
193 ~~other instrument recorded in conjunction with such plat sheet or sheets including the fee of one dollar~~  
194 ~~set forth in subdivision A 4. Whenever any writing to be recorded includes plat or map sheets no~~  
195 ~~larger than eight and one-half inches by fourteen inches, such plat or map sheets shall be counted as~~  
196 ~~ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of~~  
197 ~~fifteen dollars per page or sheet shall be charged with respect to plat or map sheets larger than eight~~  
198 ~~and one-half inches by fourteen inches. Only a single fee as authorized by this subdivision shall be~~  
199 charged for recording a certificate of satisfaction that releases the original deed of trust and any  
200 corrected or revised deeds of trust. One dollar and fifty cents of the fee collected for recording and  
201 indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum  
202 collected for this purpose shall be administered by The Library of Virginia in cooperation with the  
203 circuit court clerks.

204 3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other  
205 fiduciary, in addition to any fees for recording allowed by this section, twenty dollars for estates not  
206 exceeding \$50,000, twenty-five dollars for estates not exceeding \$100,000 and thirty dollars for estates  
207 exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

208 4. For entering and granting and for issuing any license, other than a marriage license or a hunting  
209 and fishing license, and administering an oath when necessary, ten dollars.

210 5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths  
211 or affidavits, indexing and recording, ten dollars.

212 6. For making out any bond, other than those under § 17.1-267 or subdivision A 4 of this section,  
213 administering all necessary oaths and writing proper affidavits, three dollars.

214 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee  
215 shall be fifteen dollars in cases not exceeding \$500 and twenty-five dollars in all other cases.

216 8. For making out a copy of any paper or record to go out of the office, which is not otherwise  
217 specifically provided for, a fee of fifty cents for each page. However, there shall be no charge to the  
218 recipient of a final order or decree to send an attested copy to such party.

219 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying  
220 it, the clerk shall charge two dollars and for attaching the certificate of the judge, if the clerk is  
221 requested to do so, the clerk shall charge an additional fifty cents.

222 10. In any case in which a person is convicted of a violation of any provision of Article 1  
223 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess a fee of \$150 for each felony  
224 conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant  
225 and shall be paid into the Drug Offender Assessment Fund.

226 11. a. Upon conviction in misdemeanor cases, the clerk shall charge the defendant twenty-six dollars  
227 in each case. Sums shall be collected for and paid to the benefit of the Virginia Crime Victim-Witness  
228 Fund as provided for in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded  
229 to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided  
230 in § 9.1-106, to be used for financial support of the regional criminal justice training academies,  
231 irrespective of whether the defendant was convicted of a misdemeanor chargeable under the Code of  
232 Virginia or pursuant to a local ordinance.

233 b. In addition, in each case in which a person is convicted of a violation of any provision of Article  
234 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of seventy-five dollars  
235 for each misdemeanor conviction which shall be taxed as costs to the defendant and shall be paid into  
236 the Drug Offender Assessment Fund, unless such fee has been assessed and taxed in the general district  
237 court as provided in § 16.1-69.48:3 and (ii) a fee of \$100 per case for any forensic laboratory analysis  
238 performed for use in prosecution of such violation which shall be taxed as costs to the defendant and  
239 shall be paid into the general fund of the state treasury.

240 c. In addition, for each misdemeanor case the clerk shall collect and tax as costs (i) the fees of the  
241 attorneys for the Commonwealth as provided for in § 15.2-1627.3, (ii) the compensation of  
242 court-appointed counsel as provided in § 19.2-163, (iii) the fees of the public defenders as provided for  
243 in § 19.2-163.2, (iv) the additional costs imposed under § 19.2-368.18 to be deposited into the Criminal

Injuries Compensation Fund, and (v) in any court in which electronic devices are used for the purpose of recording testimony, a sum not to exceed five dollars for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service contracts.

d. In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by the sheriff.

12. Upon the defendant's being required to successfully complete traffic school or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all actions at law the clerk's fee chargeable to the plaintiff shall be fifty dollars in cases not exceeding \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000; and in condemnation cases, a fee of twenty-five dollars, to be paid by the plaintiff at the time of instituting the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be fifty dollars, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for actions at law, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering judgment, twelve dollars, and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, ten dollars.

16. For each habeas corpus proceeding, the clerk shall receive ten dollars for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

17. For docketing and indexing a judgment from any other court of this Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of five dollars; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of twenty dollars.

18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge ten dollars, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.

19. For receiving and processing an application for a tax deed, ten dollars.

20. For all services rendered by the clerk in any condemnation proceeding instituted by the Commonwealth, twenty-five dollars.

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, one dollar.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ten dollars.

23. For preparation and issuance of a subpoena duces tecum, five dollars.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, twenty dollars; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

25. For providing court records or documents on microfilm, per frame, ten cents.

26. In all chancery causes, the clerk's fee chargeable to the plaintiff shall be fifty dollars to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of

305 both such decrees.

306 27. For the acceptance of credit cards in lieu of money to collect and secure all fees, including filing  
307 fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect a service charge of four  
308 percent of the amount paid.

309 28. For the return of any check unpaid by the financial institution on which it was drawn or notice is  
310 received from the credit card issuer that payment will not be made for any reason, the clerk shall  
311 collect, if allowed by the court, a fee of twenty dollars or ten percent of the amount to be paid,  
312 whichever is greater, in accordance with § 19.2-353.3.

313 29. For all services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1,  
314 17.1-275.2, 17.1-275.3, or § 17.1-275.4, in an adoption proceeding, a fee of twenty dollars, in addition  
315 to the fee imposed under § 63.1-219.53, to be paid by the petitioner or petitioners.

316 30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the  
317 same amount as the fee for the original license.

318 31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of five  
319 dollars to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided  
320 for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same  
321 fee as for recording a deed as provided for in this section, to be paid by the party upon whose request  
322 such certificate is recorded or order is entered.

323 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme  
324 Court, including all papers necessary to be copied and other services rendered, except in cases in which  
325 costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, or § 17.1-275.4, a fee of twenty  
326 dollars.

327 33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, twenty-five cents.

328 34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees  
329 shall be as prescribed in that Act.

330 35. For filing the appointment of a resident agent for a nonresident property owner in accordance  
331 with § 55-218.1, a fee of one dollar.

332 36. [Repealed].

333 37. For recordation of certificate and registration of names of nonresident owners in accordance with  
334 § 59.1-74, a fee of ten dollars.

335 38. For maintaining the information required under the Overhead High Voltage Line Safety Act  
336 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

337 39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of two dollars.

338 40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed  
339 under § 8.9A-525.

340 41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed  
341 under § 8.9A-525.

342 42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as  
343 prescribed under § 8.9A-525.

344 43. For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ten dollars.

345 44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

346 45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee  
347 of five dollars. If there is no outstanding execution, and one is requested herewith, the clerk shall be  
348 allowed an additional fee of \$1.50, in accordance with subdivision A 44.

349 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, 10, 11, 13, 16,  
350 18 if applicable, 20, 22, 24, 26, 29 and 31 to be designated for courthouse construction, renovation or  
351 maintenance.

352 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if  
353 applicable, 20, 22, 24, 26, 29 and 31 to be designated for services provided for the poor, without  
354 charge, by a nonprofit legal aid program.

355 D. In accordance with § 9.1-105, the clerk shall collect fees under subdivisions A 10 and 11 to be  
356 designated for the Intensified Drug Enforcement Jurisdiction Fund.

357 E. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if  
358 applicable, 20, 22, 24, 26, 29 and 31 to be designated for public law libraries.

359 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the  
360 services above described.

361 § 19.2-187. Admission into evidence of certain certificates of analysis.

362 In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1  
363 (§ 19.2-386.1 et seq.) of this title, a certificate of analysis of a person performing an analysis or  
364 examination, performed in any laboratory operated by the Division of Consolidated Laboratory Services  
365 or the Division of Forensic Science or authorized by such Division to conduct such analysis or  
366 examination, or performed by the Federal Bureau of Investigation, the federal Postal Inspection Service,

the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, or the United States Secret Service Laboratory when such certificate is duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the hearing or trial and (ii) a copy of such certificate is mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be ~~in writing~~ *on a form prescribed by the Supreme Court and filed with the clerk at least ten days prior to trial and shall clearly state in its heading "Request for Copy of Certificate of Analysis."* *In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective.*

The certificate of analysis of any examination conducted by the Division of Forensic Science relating to a controlled substance or marijuana shall be mailed or forwarded by personnel of the Division of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it.

§ 19.2-270.4:1. Storage, preservation and retention of human biological evidence in felony cases.

A. Notwithstanding any provision of law or rule of court, upon motion of a person convicted of a felony but not sentenced to death or his attorney of record to the circuit court that entered the judgment for the offense, the court shall order the storage, preservation, and retention of ~~any~~ *specifically identified* human biological evidence or representative samples collected or obtained in the case for a period of up to fifteen years from the time of conviction, unless the court determines, in its discretion, that the evidence should be retained for a longer period of time. Upon the filing of such a motion, the defendant may request a hearing for the limited purpose of identifying the human biological evidence or representative samples that are to be stored in accordance with the provisions of this section. Upon the granting of the motion, the court shall order the clerk of the circuit court to transfer all such evidence to the Division of Forensic Science. The Division of Forensic Science shall store, preserve, and retain such evidence. If the evidence is not within the custody of the clerk at the time the order is entered, the court shall order the governmental entity having custody of the evidence to transfer such evidence to the Division of Forensic Science. Upon the entry of an order under this subsection, the court may upon motion or upon good cause shown, with notice to the convicted person, his attorney of record and the attorney for the Commonwealth, modify the original storage order, as it relates to time of storage of the evidence or samples, for a period of time greater than or less than that specified in the original order.

B. In the case of a person sentenced to death, the court that entered the judgment shall, in all cases, order any human biological evidence or representative samples to be transferred by the governmental entity having custody to the Division of Forensic Science. The Division of Forensic Science shall store, preserve, and retain such evidence until the judgment is executed. If the person sentenced to death has his sentence reduced, then such evidence shall be transferred from the Division to the original investigating law-enforcement agency for storage as provided in this section.

C. Pursuant to standards and guidelines established by the Division of Forensic Science, the order shall state the method of custody, transfer and return of any evidence to insure and protect the Commonwealth's interest in the integrity of the evidence. Pursuant to standards and guidelines established by the Division of Forensic Science, the Division of Forensic Science, local law-enforcement agency or other custodian of the evidence shall take all necessary steps to preserve, store, and retain the evidence and its chain of custody for the period of time specified.

D. In any proceeding under this section, the court, upon a finding that the physical evidence is of such a nature, size or quantity that storage, preservation or retention of all of the evidence is impractical, may order the storage of only representative samples of the evidence. The Division of Forensic Science shall take representative samples, cuttings or swabbings and retain them. The remaining evidence shall be handled according to § 19.2-270.4 or as otherwise provided for in the Code.

E. An action under this section or the performance of any attorney representing the petitioner under this section shall not form the basis for relief in any habeas corpus or appellate proceeding. Nothing in this section shall create any cause of action for damages against the Commonwealth, or any of its political subdivisions or officers, employees or agents of the Commonwealth or its political subdivisions.

§ 31-8.1. Parental duty of support.

428 A. Notwithstanding the provisions of § 31-8, a guardian of a minor's estate shall not make any  
429 distribution of income or corpus to or for the benefit of a ward who has a living parent, whether or not  
430 the guardian is such parent, except to the extent that the distribution is authorized by (i) the deed, will  
431 or other instrument under which the estate is derived, or (ii) the court, upon a finding that (a) the parent  
432 is unable to completely fulfill the parental duty of supporting the child, (b) the parent cannot for some  
433 reason be required to provide such support, or (c) a proposed distribution is beyond the scope of  
434 parental duty of support in the circumstances of a specific case. The existence of a parent-child  
435 relationship shall be determined in accordance with the provisions of § 64.1-5.1. The court's  
436 authorization may be contained in the order appointing the guardian or it may be obtained at any time  
437 prior to the disbursement in question; however, in extenuating circumstances where the interests of  
438 equity so require, the court's authorization may be obtained after the disbursement in question.

439 B. A guardian who desires to make any distribution specified in subsection A when neither (i) an  
440 existing court order nor (ii) the deed, will or other instrument under which the estate is derived  
441 authorizes it, shall file a petition in the court wherein his accounts may be settled, naming the ward as a  
442 defendant and setting forth the reasons why such distribution is appropriate. The court or clerk shall  
443 appoint an attorney-at-law as guardian ad litem to represent the ward. Proceedings on the petition shall  
444 otherwise conform in all respects to a bill in chancery, except that the evidence may be taken orally and  
445 the petition may be filed in court upon five days' notice to the ward, unless it is shown that he is under  
446 the age of fourteen. No attorney's fees shall be taxed in the costs, nor shall there be any writ tax upon  
447 the petition. The court may fix reasonable attorney's fees for services in connection with the filing of the  
448 petition, and the court shall fix the guardian ad litem's fee. Such fees shall be paid out of the estate  
449 unless the court directs that they be paid by the petitioner. The clerk shall receive a fee of ~~one dollar~~ as  
450 *provided in subdivision A. 18. of § 17.1-275* for all services rendered thereon, to be paid by the  
451 guardian, out of the estate. Any notice required to be served under this section may be served by any  
452 person other than the guardian. Notwithstanding the preceding provisions of this subsection, if the court  
453 determines that an emergency exists, an order authorizing a distribution may be entered without the  
454 appointment of a guardian ad litem, with the court making such further provisions in its order for the  
455 protection of the ward's estate as it may deem proper in each case.

456 § 32.1-267. Records of marriages; duties of officer issuing marriage license and person officiating at  
457 ceremony; blocking of social security number.

458 A. For each marriage performed in this Commonwealth, a record showing personal data for the  
459 married parties, the marriage license, and the certifying statement of the facts of marriage shall be filed  
460 with the State Registrar as provided in this section.

461 B. The officer issuing a marriage license shall prepare the record based on the information obtained  
462 under oath or by affidavit from the parties to be married. The parties shall also include their social  
463 security numbers or other control numbers issued by the Department of Motor Vehicles pursuant to  
464 § 46.2-342 and affix their signatures to the application for such license.

465 C. Every person who officiates at a marriage ceremony shall certify to the facts of marriage and file  
466 the record in duplicate with the officer who issued the marriage license within five days after the  
467 ceremony. In the event such officiant dies or becomes incapacitated before completing the certificate of  
468 marriage, the official who issued the marriage license shall complete the certificate of marriage upon the  
469 order of the court to which is submitted proof that the marriage was performed.

470 D. Every officer issuing marriage licenses shall on or before the tenth day of each calendar month  
471 forward to the State Registrar a record of each marriage filed with him during the preceding calendar  
472 month.

473 E. The State Registrar shall furnish forms for the marriage license, marriage certificate, and  
474 application for marriage license used in this Commonwealth. Such forms shall be configured so as to  
475 cause the social security number or control number required pursuant to the provisions of subsection B  
476 to appear only on the application for marriage license retained by the officer issuing the marriage license  
477 and the copy of such license forwarded to the State Registrar pursuant to the provisions of subsection D.

478 F. Applications for marriage licenses filed on and after July 1, 1997, *and marriage registers*  
479 *recording such applications*, which have not been configured to prevent disclosure of the social security  
480 number or control number required pursuant to the provisions of subsection B of this section shall not  
481 be available for general public inspection in the offices of clerks of the circuit courts. The clerk shall  
482 make such applications *and registers* available for inspection only (i) upon the order of the circuit court  
483 within which such application was made *or register is maintained*, (ii) pursuant to a lawful subpoena  
484 duces tecum issued to the clerk, (iii) upon the written authorization of either of the applicants, or (iv)  
485 upon the request of a law-enforcement officer or duly authorized representative of the Division of Child  
486 Support Enforcement in the course of performing his official duties. Nothing in this subsection shall be  
487 construed to restrict public access to marriage licenses or to prohibit the clerk from making available to  
488 the public applications for marriage licenses *and marriage registers* stored in any electronic medium or  
489 other format that permits the blocking of the field containing the social security or control number



required pursuant to the provisions of subsection B of this section, so long as access to such number is blocked.

§ 47.1-5. Application; references.

No person shall be appointed a notary public pursuant to this chapter until he submits an application to the Secretary of the Commonwealth, in a form prescribed by the appointing authority, which shall include the following:

1. The oath of the applicant, signed and sworn before some officer authorized by law to administer oaths, that the answers to all questions on the application are true and complete to the best of his knowledge and that he is qualified to be appointed and commissioned as a notary public.

2. Endorsements from two registered voters of this Commonwealth, stating that, to the best of the endorser's knowledge, the applicant is a person of sound moral character and is possessed of all the qualifications for appointment set forth in this chapter.

3. A statement signed by any judge, clerk or deputy clerk of any court of this Commonwealth, or by any attorney for the Commonwealth or assistant attorney for the Commonwealth, or by the Attorney General or any of his assistants, or by any member of the General Assembly, that such official has examined the application and recommends the applicant for appointment.

4. An application fee as set forth in § 2.2-409; however, such fee shall be waived for an application filed by a clerk or deputy clerk of a *circuit or* general district court.

§ 55-66.4:2. Where certificates of satisfaction are to be indexed.

A certificate of partial satisfaction or a certificate of satisfaction shall be recorded by the clerk on the grantor index, both under the name of each grantor on the underlying deed of trust and under the name ~~or names~~ of the ~~trustees~~ *first-named trustee* under which the deed of trust was indexed, all as identified on the certificate of satisfaction. The deed book and page number or the instrument number of the released deed of trust shall also be designated in the index. Any clerk using a separate index book or data file for grantees only shall also record therein the name of each grantor on the underlying deed of trust as identified on the certificate of satisfaction.

§ 64.1-94. Wills to be recorded; recording copies; effect; indexing; transfer to The Library of Virginia.

Every will or authenticated copy admitted to probate by any court or clerk of any circuit court shall be recorded by the clerk and remain in the clerk's office, except during such time as the same may be carried to another court under a subpoena duces tecum *and except as otherwise provided in § 17.1-213*. A duly certified copy of such will or of any authenticated copy so admitted to record may be recorded in any county or city wherein there is any estate, real or personal, devised or bequeathed by such will.

The personal representative of the testator shall cause a duly certified copy of any will or of any authenticated copy so admitted to record to be recorded in any county or city wherein there is any real estate of which the testator died seized or which is devised by his will. On and after July 1, 1964, such will shall be indexed in the General Indices of Deeds in such clerk's office in the name of the testator as grantor, except in such clerk's office wherein General Indices to Wills are kept.

Every will, or such a duly certified copy as is mentioned in this section, when duly recorded shall have the effect of notice to all persons of any devise or disposal by the will of real estate situated in a county or city in which such will or copy is so recorded.

Every clerk on recording any will, or such a copy as is mentioned in this section, shall index the same as required by law.

With the approval of the judges of a circuit court of any county or city, the clerk of such court may transfer such original wills from his office to the Archives Division of The Library of Virginia. A copy of any will that has been microfilmed or stored in an electronic medium, prepared from such microfilmed or electronic record and certified as authentic by the clerk or his designee, shall constitute a "duly certified copy" of the will for any purpose arising under this title for which a duly certified copy of the will is required.