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HOUSE BILL NO. 1141

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 13, 2004)

(Patron Prior to Substitute—Delegate McDonnell)

*A BILL to amend and reenact § 16.1-69.48:1 of the Code of Virginia, relating to fixed fee for misdemeanors, etc.***Be it enacted by the General Assembly of Virginia:****1. That § 16.1-69.48:1 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on: (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school or a driver improvement clinic, in lieu of a finding of guilty; or (v) a deferral of proceedings pursuant to §§ 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-67.2:1, 18.2-251 or § 19.2-303.2.

In addition to any other fee prescribed by this section, a fee of \$20 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the *applicable fixed fee* provided in *subsection B, C, or D* of this section more than once for a single appearance or trial in absence related to that incident. *However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.*

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$59. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund)(.593220);
2. Virginia Crime Victim-Witness Fund (.050847);
3. Regional Criminal Justice Training Academies Fund (.016949);
4. Courthouse Construction/Maintenance Fund (.033898);
5. Criminal Injuries Compensation Fund (.101694);
6. Intensified Drug Enforcement Jurisdiction Fund (.067796); and
7. Sentencing/supervision fee (General Fund) (.135593)

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$134. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund)(.261194);
2. Virginia Crime Victim-Witness Fund (.022388);
3. Regional Criminal Justice Training Academies Fund (.007462);
4. Courthouse Construction/Maintenance Fund (.014925);
5. Criminal Injuries Compensation Fund (.044776);
6. Intensified Drug Enforcement Jurisdiction Fund (.029850);
7. Drug Offender Assessment Fund(.559701); and
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.059701)

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$49. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.795918);
2. Virginia Crime Victim-Witness Fund (.061224);
3. Regional Criminal Justice Training Academies Fund (.020408);

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- 60** 4. Courthouse Construction/Maintenance Fund (.040816); and
- 61** 5. Intensified Drug Enforcement Jurisdiction Fund (.081632).