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HOUSE BILL NO. 982

House Amendments in [] — February 12, 2004

A BILL to amend and reenact §§ 16.1-69.48:5, 16.1-107 and 16.1-112 of the Code of Virginia, relating to fees for services of district courts.

Patron Prior to Engrossment—Delegate Reese

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:5, 16.1-107 and 16.1-112 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.48:5. Fees for services of juvenile and domestic relations district court judges and clerks in certain civil cases.

Except as otherwise provided, upon the initial commencement of any case in the juvenile and domestic relations district court pursuant to subdivision A 3 of § 16.1-241 when the custody or visitation of a child is a subject of controversy or requires determination, there shall be a filing fee of \$25. No case to which this fee is applicable shall be set for hearing by the clerk until this fee has been paid except on account of poverty as provided in § 17.1-606. Fees shall be paid to the clerk in the jurisdiction in which the petition is filed.

This fee shall not be charged in any case brought by an agent of the Commonwealth or of a local government entity.

When service of process is had on the respondent named in a petition for which the filing fee established by this section has been paid, such petition may be reissued once by changing the return day of such process, for which service there shall be no charge; however, reissuance of such process shall be within three months after the original return day.

In the case of an appeal filed pursuant to § 16.1-296, the clerk shall collect the fees for service of process [~~in the circuit court~~ of the notice of appeal in the circuit court pursuant to § 16.1-296] from the appellant prior to transmitting the case to the clerk of the circuit court.

§ 16.1-107. Requirements for appeal.

No appeal shall be allowed unless and until the party applying for the same or someone for him shall give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if such appeal is perfected, or if not so perfected, then to satisfy the judgment of the court in which it was rendered. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict, or an insane person, or the interest of a county, city, town or transportation district created pursuant to Chapter 45 (§ 15.2-4500 et seq.) of Title 15.2.

If such bond is furnished by or on behalf of any party against whom judgment has been rendered for money or property or both, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against such party on appeal, and for the payment of all costs and damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery except for costs, the bond shall be conditioned for the payment of such costs and damages as may be awarded against him on the appeal.

In addition to the foregoing, the party applying for appeal shall, within ~~thirty~~ 30 days from the date of the judgment, pay to the clerk of the court from which the appeal is taken the amount of the writ tax of the court to which the appeal is taken and costs as required by subdivision A 13 of § 17.1-275, *including all fees for service of process [~~in the circuit court~~ of the notice of appeal in the circuit court pursuant to § 16.1-296]*.

§ 16.1-112. All papers transmitted to appellate court; further proceedings.

The judge or clerk of any court from which an appeal is taken under this article shall promptly transmit to the clerk of the appellate court the original warrant or warrants or other notices or pleadings with the judgment endorsed thereon, together with all pleadings, exhibits and other papers filed in the trial of the case, the required bond, and, if applicable, the money deposited to secure such bond and the writ tax and costs paid pursuant to § 16.1-107, *and the fees for service of process [of the notice of appeal] in the circuit court*. Upon receipt of the foregoing by the clerk of the appellate court, the case shall then be docketed.

When such case has been docketed, the clerk of such appellate court shall by writing to be served, as provided in §§ 8.01-288, 8.01-293, 8.01-296 and 8.01-325, or by certified mail, with certified delivery receipt requested, notify the appellee [~~or his attorney~~ , *or shall notify his attorney by writing served by*

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59 *regular mail,*] that such an appeal has been docketed in his office; provided, that upon affidavit by the
60 appellant or his agent in conformity with § 8.01-316 being filed with the clerk, the clerk shall post such
61 notice at the front door of his courtroom and shall mail a copy thereof to the appellee at his last known
62 address or place of abode or to his attorney; and he shall file a certificate of such posting and mailing
63 with the papers in the case. No such appeal shall be heard unless it appears that the appellee or his
64 attorney has had such notice, or that such certificate has been filed, ~~ten~~ 10 days before the date fixed for
65 trial, or has in person or by attorney waived such notice.