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SENATE BILL NO. 826

Offered January 12, 2005

Prefiled January 10, 2005

A *BILL to amend and reenact §§ 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, and 17.1-275.9 of the Code of Virginia, relating to fixed fees for misdemeanors and felonies.*

Patrons—Mims; Delegate: Marshall, R.G.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, and 17.1-275.9 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 \$64. 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) ~~(.573770)~~ (.546875);
2. Virginia Crime Victim-Witness Fund ~~(.049180)~~ (.093750);
3. Regional Criminal Justice Training Academies Fund ~~(.016393)~~ (.015625);
4. Courthouse Construction/Maintenance Fund ~~(.032787)~~ (.031250);
5. Criminal Injuries Compensation Fund ~~(.098361)~~ (.093750);
6. Intensified Drug Enforcement Jurisdiction Fund ~~(.065574)~~ (.06250);
7. Sentencing/supervision fee (General Fund) ~~(.131148)~~ (.125000); and
8. Virginia Domestic Violence Victim Fund ~~(.032787)~~ (.031250).

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 \$136. 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) ~~(.257353)~~ (.251798);
2. Virginia Crime Victim-Witness Fund ~~(.022059)~~ (.043165);
3. Regional Criminal Justice Training Academies Fund ~~(.007353)~~ (.007194);
4. Courthouse Construction/Maintenance Fund ~~(.014706)~~ (.014388);
5. Criminal Injuries Compensation Fund ~~(.044118)~~ (.043165);
6. Intensified Drug Enforcement Jurisdiction Fund ~~(.029412)~~ (.028770);
7. Drug Offender Assessment and Treatment Fund ~~(.551471)~~ (.539568);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) ~~(.058824)~~ (.057553); and

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59 9. Virginia Domestic Violence Victim Fund ~~(.014706)~~(.014388).

60 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
61 ~~\$5454~~. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
62 law, to the following funds in the fractional amounts designated:

- 63 1. Processing fee (General Fund) ~~(.764706)~~(.722222);
- 64 2. Virginia Crime Victim-Witness Fund ~~(.058824)~~(.111111);
- 65 3. Regional Criminal Justice Training Academies Fund ~~(.019608)~~(.018518);
- 66 4. Courthouse Construction/Maintenance Fund ~~(.039216)~~(.037037);
- 67 5. Intensified Drug Enforcement Jurisdiction Fund ~~(.078431)~~(.074074); and
- 68 6. Virginia Domestic Violence Victim Fund ~~(.039216)~~(.037037).

69 § 17.1-275.1. Fixed felony fee.

70 Upon conviction of any and each felony charge or upon a deferred disposition of proceedings in
71 circuit court in the case of any and each felony disposition deferred pursuant to the terms and conditions
72 of §§ ~~16.1-278.8, 16.1-278.9, 18.2-61, 18.2-67.1, 18.2-67.2:1, or § 18.2-251~~, there shall be assessed as
73 court costs a fee of ~~\$350353~~, to be known as the fixed felony fee.

74 The amount collected, in whole or in part, for the fixed felony fee shall be apportioned, as provided
75 by law, to the following funds in the fractional amounts designated:

- 76 1. Sentencing/supervision fee (General Fund) ~~(.5041143)~~(.499830);
- 77 2. Forensic science fund ~~(.1107143)~~(.109773);
- 78 3. Court reporter fund ~~(.0950571)~~(.094249);
- 79 4. Witness expenses/expert witness fund ~~(.0057143)~~(.005665);
- 80 5. Virginia Crime Victim-Witness Fund ~~(.0085714)~~(.016997);
- 81 6. Intensified Drug Enforcement Jurisdiction Fund ~~(.0114286)~~(.011331);
- 82 7. Criminal Injuries Compensation Fund ~~(.0857143)~~(.084985);
- 83 8. Commonwealth's attorney fund (state share) ~~(.0214286)~~(.021246);
- 84 9. Commonwealth's attorney fund (local share) ~~(.0214286)~~(.021246);
- 85 10. Regional Criminal Justice Academy Training Fund ~~(.0028571)~~(.002832);
- 86 11. Warrant fee ~~(.0342857)~~(.033994);
- 87 12. Courthouse construction/maintenance fund ~~(.0057143)~~(.005665); and
- 88 13. Clerk of the circuit court ~~(.0929714)~~(.092181).

89 § 17.1-275.2. Fixed fee for felony reduced to misdemeanor.

90 In circuit court, upon the conviction of a person of any and each misdemeanor reduced from a felony
91 charge, or upon a deferred disposition of proceedings in the case of any and each misdemeanor reduced
92 from a felony charge and deferred pursuant to the terms and conditions of §§ 4.1-305, 16.1-278.8,
93 16.1-278.9, 18.2-57.3, 18.2-67.2:1, or § 19.2-303.2, there shall be assessed as court costs a fee of
94 ~~\$202205~~, to be known as the fixed fee for felony reduced to misdemeanor. However, this section shall
95 not apply to those proceedings provided for in § 17.1-275.8.

96 The amount collected, in whole or in part, for the fixed fee for felony reduced to misdemeanor shall
97 be apportioned to the following funds in the fractional amounts designated:

- 98 1. Sentencing/supervision fee (General Fund) ~~(.1904950)~~(.187804);
- 99 2. Forensic science fund ~~(.1918317)~~(.189024);
- 100 3. Court reporter fund ~~(.1647030)~~(.162195);
- 101 4. Witness expenses/expert witness fund ~~(.0099010)~~(.009756);
- 102 5. Virginia Crime Victim-Witness Fund ~~(.0148515)~~(.029268);
- 103 6. Intensified Drug Enforcement Jurisdiction Fund ~~(.0198020)~~(.019512);
- 104 7. Criminal Injuries Compensation Fund ~~(.0990099)~~(.097560);
- 105 8. Commonwealth's attorney fund (state share) ~~(.0371287)~~(.036585);
- 106 9. Commonwealth's attorney fund (local share) ~~(.0371287)~~(.036585);
- 107 10. Regional Criminal Justice Academy Training Fund ~~(.0049505)~~(.004878);
- 108 11. Warrant fee ~~(.0594059)~~(.058536);
- 109 12. Courthouse construction/maintenance fund ~~(.0099010)~~(.009756); and
- 110 13. Clerk of the circuit court ~~(.1608911)~~(.158536).

111 § 17.1-275.3. Fixed felony revocation fee.

112 Upon the partial or full revocation of suspension of sentence or probation of a convicted felon
113 pursuant to § 19.2-306, other than a revocation for failure to pay previously assessed court costs, there
114 shall be assessed as court costs a fee of ~~\$133136~~ to be known as the fixed felony revocation fee. A
115 single fixed felony revocation fee shall be assessed per defendant per hearing without regard to the
116 number of revocations being considered.

117 The amount collected, in whole or in part, for the fixed felony revocation fee shall be apportioned to
118 the following funds in the fractional amounts designated:

- 119 1. Virginia Crime Victim-Witness Fund ~~(.0225564)~~(.044117);
- 120 2. Intensified Drug Enforcement Jurisdiction Fund ~~(.0300752)~~(.029411);

3. Court reporter fund ~~(.2501504)~~(.244632);
4. Witness expenses/expert witness fund ~~(.0150376)~~(.014705);
5. Commonwealth's attorney fund (state share) ~~(.0563910)~~(.055147);
6. Commonwealth's attorney fund (local share) ~~(.0563910)~~(.055147);
7. Criminal Injuries Compensation Fund ~~(.2255639)~~(.220588);
8. Regional Criminal Justice Academy Training Fund ~~(.0075188)~~(.007352);
9. Warrant fee ~~(.0902256)~~(.088235); and
10. Clerk of the circuit court ~~(.2460902)~~(.240661).

§ 17.1-275.4. Fixed misdemeanor reduced from felony revocation fee.

In circuit court, when a person whose charge was reduced from a felony charge is convicted of a misdemeanor and subsequently suffers partial or full revocation of his suspension of sentence or probation pursuant to § 19.2-306, other than a revocation for failure to pay previously assessed court costs, he shall be assessed as court costs a fee of \$~~89.50~~92.50 to be known as the fixed misdemeanor reduced from felony revocation fee. A single fixed misdemeanor reduced from felony revocation fee shall be assessed per defendant per hearing without regard to the number of misdemeanor revocations being considered except that if a revocation of probation or suspended sentence upon a felony conviction is also being considered at the same revocation proceeding, a single fixed felony revocation fee shall apply instead. The amount collected, in whole or in part, for the fixed misdemeanor reduced from felony revocation fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Virginia Crime Victim-Witness Fund ~~(.0335196)~~(.064864);
2. Intensified Drug Enforcement Jurisdiction Fund ~~(.0446927)~~(.043243);
3. Witness expenses/expert witness fund ~~(.0223464)~~(.021621);
4. Commonwealth's attorney fund (state share) ~~(.0837989)~~(.081081);
5. Commonwealth's attorney fund (local share) ~~(.0837989)~~(.081081);
6. Criminal Injuries Compensation Fund ~~(.2234637)~~(.216216);
7. Regional Criminal Justice Training Academy Fund ~~(.0111732)~~(.010810);
8. Warrant fee, as prescribed by § 17.1-272 ~~(.1340782)~~(.129729); and
9. Clerk of the circuit court ~~(.3631285)~~(.351351).

§ 17.1-275.7. Fixed misdemeanor fee.

In circuit court, upon (i) conviction of any and each misdemeanor, not originally charged as a felony; (ii) a deferred disposition of proceedings in the case of any and each misdemeanor not originally charged as a felony and deferred pursuant to the terms and conditions of §§ 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-67.2:1, or § 19.2-303.2; or (iii) any and each conviction of a traffic infraction or referral to a driver improvement clinic or traffic school in lieu of a finding of guilt for a traffic infraction, there shall be assessed as court costs a fee of \$~~70~~73, to be known as the fixed misdemeanor fee. However, this section shall not apply to those proceedings provided for in § 17.1-275.8. This fee shall be in addition to any fee assessed in the district court.

The amount collected, in whole or in part, for the fixed misdemeanor fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Sentencing/supervision fee (General Fund) ~~(.0142857)~~(.013698);
2. Witness expenses/expert witness fee (General Fund) ~~(.0285714)~~(.027397);
3. Virginia Crime Victim-Witness Fund ~~(.0428571)~~(.082191);
4. Intensified Drug Enforcement Jurisdiction Fund ~~(.0571429)~~(.054794);
5. Criminal Injuries Compensation Fund ~~(.2857143)~~(.273972);
6. Commonwealth's Attorney Fund (state share) ~~(.0357143)~~(.034246);
7. Commonwealth's Attorney Fund (local share) ~~(.0357143)~~(.034246);
8. Regional Criminal Justice Academy Training Fund ~~(.0142857)~~(.013698);
9. Warrant fee, as prescribed by § 17.1-272 ~~(.1714286)~~(.164383);
10. Courthouse Construction/Maintenance Fund ~~(.0285714)~~(.027397); and
11. Clerk of the circuit court ~~(.2857143)~~(.273972).

§ 17.1-275.8. Fixed drug misdemeanor fee.

In circuit court, upon conviction of any and each misdemeanor charge, whether or not originally charged as a felony, for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or upon a deferred disposition of proceedings in the case of any and each misdemeanor charge, whether or not originally charged as a felony, deferred pursuant to the terms and conditions of § 18.2-251, there shall be assessed as court costs a fee of \$~~286.50~~289.50, to be known as the fixed drug misdemeanor fee. This fee shall be in addition to any fee assessed in the district court.

The amount collected, in whole or in part, for the fixed drug misdemeanor fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Sentencing/supervision fee (General Fund) ~~(.1308901)~~(.129533);

- 182 2. Court Reporter Fund (~~-.0174520~~)(.017271);
- 183 3. Witness expenses/expert witness fee (General Fund) (~~-.0069808~~)(.006908);
- 184 4. Virginia Crime Victim-Witness Fund (~~-.0104712~~)(.020725);
- 185 5. Intensified Drug Enforcement Jurisdiction Fund (~~-.0139616~~)(.013816);
- 186 6. Criminal Injuries Compensation Fund (~~-.0698080~~)(.069084);
- 187 7. Commonwealth's Attorney Fund (state share) (~~-.0087260~~)(.008635);
- 188 8. Commonwealth's Attorney Fund (local share) (~~-.0087260~~)(.008635);
- 189 9. Regional Criminal Justice Academy Training Fund (~~-.0034904~~)(.003454);
- 190 10. Warrant fee, as prescribed by § 17.1-272 (~~-.0418848~~)(.041450);
- 191 11. Courthouse Construction/Maintenance Fund (~~-.0069808~~)(.006908);
- 192 12. Clerk of the circuit court (~~-.0698080~~)(.069084);
- 193 13. Forensic laboratory fee (General Fund) (~~-.3490401~~)(.345423); and
- 194 14. Drug Offender Assessment and Treatment Fund (~~-.2617801~~)(.259067).
- 195 § 17.1-275.9. Fixed misdemeanor revocation fee.

196 In circuit court, when a person is convicted of a misdemeanor not originally charged as a felony and
 197 subsequently suffers partial or full revocation of his suspension of sentence or probation pursuant to
 198 § 19.2-306, he shall be assessed as court costs a fee of \$~~67~~ 70 to be known as the fixed misdemeanor
 199 revocation fee. A single fixed misdemeanor revocation fee shall be assessed per defendant per hearing
 200 without regard to the number of misdemeanor revocations being considered, except that if a revocation
 201 of probation or suspended sentence upon a felony conviction is also being considered at the same
 202 revocation proceeding, a single fixed felony revocation fee shall apply instead. The amount collected, in
 203 whole or in part, for the fixed misdemeanor revocation fee shall be apportioned, as provided by law, to
 204 the following funds in the fractional amounts designated:

- 205 1. Virginia Crime Victim-Witness Fund (~~-.0447761~~)(.085714);
- 206 2. Intensified Drug Enforcement Jurisdiction Fund (~~-.0597015~~)(.057142);
- 207 3. Witness expenses/expert witness fee (General Fund) (~~-.0298507~~)(.028571);
- 208 4. Commonwealth's Attorney Fund (state share) (~~-.0373134~~)(.035714);
- 209 5. Commonwealth's Attorney Fund (local share) (~~-.0373134~~)(.035714);
- 210 6. Criminal Injuries Compensation Fund (~~-.2985075~~)(.285714);
- 211 7. Regional Criminal Justice Training Academy Fund (~~-.0149254~~)(.014285);
- 212 8. Warrant fee, as prescribed by § 17.1-272 (~~-.1791045~~)(.171428); and
- 213 9. Clerk of the circuit court (~~-.2985075~~)(.285714).