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HOUSE BILL NO. 234

Offered January 11, 2006

Prefiled January 3, 2006

A *BILL to amend and reenact §§ 9.1-116.1, 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.7, and 17.1-275.8 of the Code of Virginia, relating to changing the name of the Domestic Violence Victim Fund to the Sexual and Domestic Violence Victim Fund.*

Patron—Jones, D.C.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-116.1, 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.7, and 17.1-275.8 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-116.1. Virginia Sexual and Domestic Violence Victim Fund; purpose; guidelines.

A. There is created the Virginia *Sexual and Domestic Violence Victim Fund* as a special nonreverting fund to be administered by the Department of Criminal Justice Services to support the prosecution of domestic violence cases and victim services.

B. The Department shall adopt guidelines, the purpose of which shall be to make funds available to (i) local attorneys for the Commonwealth for the purpose of funding the cost of additional attorneys or to further dedicate existing resources to prosecute felonies and misdemeanors involving domestic violence, *sexual violence*, sexual abuse, stalking and family abuse, and (ii) law-enforcement authorities or appropriate programs, including civil legal assistance, to assist in protecting and providing necessary services to victims of and children affected by domestic violence, sexual abuse, stalking and family abuse.

C. A portion of the sum collected pursuant to § 16.1-69.48:1 as specified in that section shall be deposited into the state treasury to the credit of this Fund in addition to any other monies appropriated, allocated or received specifically for such purpose. The Fund shall be distributed according to grant procedures adopted pursuant to this section and shall be established on the books of the Comptroller. Any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

D. The Department shall establish a grant procedure to govern funds awarded for this purpose.

§ 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, 18.2-251 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 \$61. 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);
2. Virginia Crime Victim-Witness Fund (.049180);

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59 3. Regional Criminal Justice Training Academies Fund (.016393);
 60 4. Courthouse Construction/Maintenance Fund (.032787);
 61 5. Criminal Injuries Compensation Fund (.098361);
 62 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
 63 7. Sentencing/supervision fee (General Fund) (.131148); and
 64 8. Virginia *Sexual and Domestic Violence* Victim Fund (.032787).
 65 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1
 66 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
 67 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
 68 the following funds in the fractional amounts designated:
 69 1. Processing fee (General Fund) (.257353);
 70 2. Virginia Crime Victim-Witness Fund (.022059);
 71 3. Regional Criminal Justice Training Academies Fund (.007353);
 72 4. Courthouse Construction/Maintenance Fund (.014706);
 73 5. Criminal Injuries Compensation Fund (.044118);
 74 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
 75 7. Drug Offender Assessment and Treatment Fund (.551471);
 76 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
 77 9. Virginia *Sexual and Domestic Violence* Victim Fund (.014706).
 78 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
 79 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
 80 law, to the following funds in the fractional amounts designated:
 81 1. Processing fee (General Fund) (.764706);
 82 2. Virginia Crime Victim-Witness Fund (.058824);
 83 3. Regional Criminal Justice Training Academies Fund (.019608);
 84 4. Courthouse Construction/Maintenance Fund (.039216);
 85 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
 86 6. Virginia *Sexual and Domestic Violence* Victim Fund (.039216).
 87 § 17.1-275.1. Fixed felony fee.
 88 Upon conviction of any and each felony charge or upon a deferred disposition of proceedings in
 89 circuit court in the case of any and each felony disposition deferred pursuant to the terms and conditions
 90 of § 16.1-278.8, 16.1-278.9, 18.2-61, 18.2-67.1, or 18.2-251, there shall be assessed as court costs a fee
 91 of ~~\$350~~\$352, to be known as the fixed felony fee.
 92 The amount collected, in whole or in part, for the fixed felony fee shall be apportioned, as provided
 93 by law, to the following funds in the fractional amounts designated:
 94 1. Sentencing/supervision fee (General Fund) (~~.5041143501~~2500);
 95 2. Forensic science fund (~~.11071431100852~~);
 96 3. Court reporter fund (~~.09505710945170~~);
 97 4. Witness expenses/expert witness fund (~~.00571430056818~~);
 98 5. Virginia Crime Victim-Witness Fund (~~.00857140085227~~);
 99 6. Intensified Drug Enforcement Jurisdiction Fund (~~.01142860113637~~);
 100 7. Criminal Injuries Compensation Fund (~~.08571430852273~~);
 101 8. Commonwealth's attorney fund (state share) (~~.02142860213068~~);
 102 9. Commonwealth's attorney fund (local share) (~~.02142860213068~~);
 103 10. Regional Criminal Justice Academy Training Fund (~~.00285710028409~~);
 104 11. Warrant fee (~~.03428570340909~~);
 105 12. Courthouse construction/maintenance fund (~~.00571430056818~~); and
 106 13. Clerk of the circuit court (~~.09297140924432~~); and
 107 14. *Sexual and Domestic Violence* Victim Fund (.0056818).
 108 § 17.1-275.2. Fixed fee for felony reduced to misdemeanor.
 109 In circuit court, upon the conviction of a person of any and each misdemeanor reduced from a felony
 110 charge, or upon a deferred disposition of proceedings in the case of any and each misdemeanor reduced
 111 from a felony charge and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8,
 112 16.1-278.9, 18.2-57.3, or 19.2-303.2, there shall be assessed as court costs a fee of ~~\$202~~\$204, to be
 113 known as the fixed fee for felony reduced to misdemeanor. However, this section shall not apply to
 114 those proceedings provided for in § 17.1-275.8.
 115 The amount collected, in whole or in part, for the fixed fee for felony reduced to misdemeanor shall
 116 be apportioned to the following funds in the fractional amounts designated:
 117 1. Sentencing/supervision fee (General Fund) (~~.19049501886274~~);
 118 2. Forensic science fund (~~.19183171899510~~);
 119 3. Court reporter fund (~~.16470301630883~~);
 120 4. Witness expenses/expert witness fund (~~.00990100098039~~);

5. Virginia Crime Victim-Witness Fund (.01485150147059);
 6. Intensified Drug Enforcement Jurisdiction Fund (.01980200196079);
 7. Criminal Injuries Compensation Fund (.09900990980392);
 8. Commonwealth's attorney fund (state share) (.03712870367647);
 9. Commonwealth's attorney fund (local share) (.03712870367647);
 10. Regional Criminal Justice Academy Training Fund (.00495050049020);
 11. Warrant fee (.05940590588235);
 12. Courthouse construction/maintenance fund (.00990100098039); and
 13. Clerk of the circuit court (.16089111593137);; and
 14. *Sexual and Domestic Violence Victim Fund* (.0098039).
- § 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, 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\$72, 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) (.01428570138889);
2. Witness expenses/expert witness fee (General Fund) (.02857140277778);
3. Virginia Crime Victim-Witness Fund (.04285710416666);
4. Intensified Drug Enforcement Jurisdiction Fund (.05714290555556);
5. Criminal Injuries Compensation Fund (.28571432777778);
6. Commonwealth's Attorney Fund (state share) (.03571430347222);
7. Commonwealth's Attorney Fund (local share) (.03571430347222);
8. Regional Criminal Justice Academy Training Fund (.01428570138889);
9. Warrant fee, as prescribed by § 17.1-272 (.17142861666667);
10. Courthouse Construction/Maintenance Fund (.02857140277778); and
11. Clerk of the circuit court (.28571432777778);; and
12. *Sexual and Domestic Violence Victim Fund* (.0277778).

§ 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\$288.50, 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) (.13089011299827);
2. Court Reporter Fund (.01745200173310);
3. Witness expenses/expert witness fee (General Fund) (.00698080069324);
4. Virginia Crime Victim-Witness Fund (.01047120103986);
5. Intensified Drug Enforcement Jurisdiction Fund (.01396160138648);
6. Criminal Injuries Compensation Fund (.06980800693241);
7. Commonwealth's Attorney Fund (state share) (.00872600086655);
8. Commonwealth's Attorney Fund (local share) (.00872600086655);
9. Regional Criminal Justice Academy Training Fund (.00349040034662);
10. Warrant fee, as prescribed by § 17.1-272 (.04188480415944);
11. Courthouse Construction/Maintenance Fund (.00698080069324);
12. Clerk of the circuit court (.06980800693241);
13. Forensic laboratory fee (General Fund) (.34904013466204); and
14. Drug Offender Assessment and Treatment Fund (.26178012599653);; and
15. *Sexual and Domestic Violence Victim Fund* (.0069324).