

094428686

HOUSE BILL NO. 1745

Offered January 14, 2009

Prefiled January 7, 2009

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 victim witness fees.*

Patron—Pogge

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 are 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, 18.2-251 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~~ \$70. 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~~)(.500000);
2. Virginia Crime Victim-Witness Fund (~~.049180~~)(.171429);
3. Regional Criminal Justice Training Academies Fund (~~.016393~~)(.014286);
4. Courthouse Construction/Maintenance Fund (~~.032787~~)(.028571);
5. Criminal Injuries Compensation Fund (~~.098361~~)(.085714);
6. Intensified Drug Enforcement Jurisdiction Fund (~~.065574~~)(.057143);
7. Sentencing/supervision fee (General Fund) (~~.131148~~)(.114286); and
8. Virginia Sexual and Domestic Violence Victim Fund (~~.032787~~)(.028571).

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~~ \$145. 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~~)(.241379);
2. Virginia Crime Victim-Witness Fund (~~.022059~~)(.082759);
3. Regional Criminal Justice Training Academies Fund (~~.007353~~)(.006897);
4. Courthouse Construction/Maintenance Fund (~~.014706~~)(.013793);
5. Criminal Injuries Compensation Fund (~~.044118~~)(.041379);
6. Intensified Drug Enforcement Jurisdiction Fund (~~.029412~~)(.027586);
7. Drug Offender Assessment and Treatment Fund (~~.551471~~)(.517241);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (~~.058824~~)(.055172); and
9. Virginia Sexual and Domestic Violence Victim Fund (~~.014706~~)(.013793).

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59 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of ~~\$51~~
 60 ~~\$60~~. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
 61 law, to the following funds in the fractional amounts designated:

- 62 1. Processing fee (General Fund) (~~.764706~~)(.650000);
- 63 2. Virginia Crime Victim-Witness Fund (~~.058824~~)(.200000);
- 64 3. Regional Criminal Justice Training Academies Fund (~~.019608~~)(.016667);
- 65 4. Courthouse Construction/Maintenance Fund (~~.039216~~)(.033333);
- 66 5. Intensified Drug Enforcement Jurisdiction Fund (~~.078431~~)(.066667); and
- 67 6. Virginia Sexual and Domestic Violence Victim Fund (~~.039216~~)(.033333).

68 § 17.1-275.1. Fixed felony fee.

69 Upon conviction of any and each felony charge or upon a deferred disposition of proceedings in
 70 circuit court in the case of any and each felony disposition deferred pursuant to the terms and conditions
 71 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
 72 of ~~\$350~~ \$359, to be known as the fixed felony fee.

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

- 75 1. Sentencing/supervision fee (General Fund) (~~.5041143~~)(.4914763);
- 76 2. Forensic science fund (~~.1107143~~)(.1079387);
- 77 3. Court reporter fund (~~.0950571~~)(.0926741);
- 78 4. Witness expenses/expert witness fund (~~.0057143~~)(.0055710);
- 79 5. Virginia Crime Victim-Witness Fund (~~.0085714~~)(.0334262);
- 80 6. Intensified Drug Enforcement Jurisdiction Fund (~~.0114286~~)(.0111421);
- 81 7. Criminal Injuries Compensation Fund (~~.0857143~~)(.0835655);
- 82 8. Commonwealth's attorney fund (state share) (~~.0214286~~)(.0208914);
- 83 9. Commonwealth's attorney fund (local share) (~~.0214286~~)(.0208914);
- 84 10. Regional Criminal Justice Academy Training Fund (~~.0028571~~)(.0027855);
- 85 11. Warrant fee (~~.0342857~~)(.0334262);
- 86 12. Courthouse construction/maintenance fund (~~.0057143~~)(.0055710); and
- 87 13. Clerk of the circuit court (~~.0929714~~)(.0906407).

88 § 17.1-275.2. Fixed fee for felony reduced to misdemeanor.

89 In circuit court, upon the conviction of a person of any and each misdemeanor reduced from a felony
 90 charge, or upon a deferred disposition of proceedings in the case of any and each misdemeanor reduced
 91 from a felony charge and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8,
 92 16.1-278.9, 18.2-57.3, or 19.2-303.2, there shall be assessed as court costs a fee of ~~\$202~~ \$211, to be
 93 known as the fixed fee for felony reduced to misdemeanor. However, this section shall not apply to
 94 those proceedings provided for in § 17.1-275.8.

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

- 97 1. Sentencing/supervision fee (General Fund) (~~.1904950~~)(.1823697);
- 98 2. Forensic science fund (~~.1918317~~)(.1836493);
- 99 3. Court reporter fund (~~.1647030~~)(.1576777);
- 100 4. Witness expenses/expert witness fund (~~.0099010~~)(.0094787);
- 101 5. Virginia Crime Victim-Witness Fund (~~.0148515~~)(.0568720);
- 102 6. Intensified Drug Enforcement Jurisdiction Fund (~~.0198020~~)(.0189573);
- 103 7. Criminal Injuries Compensation Fund (~~.0990099~~)(.0947867);
- 104 8. Commonwealth's attorney fund (state share) (~~.0371287~~)(.0355450);
- 105 9. Commonwealth's attorney fund (local share) (~~.0371287~~)(.0355450);
- 106 10. Regional Criminal Justice Academy Training Fund (~~.0049505~~)(.0047393);
- 107 11. Warrant fee (~~.0594059~~)(.0568720);
- 108 12. Courthouse construction/maintenance fund (~~.0099010~~)(.0094787); and
- 109 13. Clerk of the circuit court (~~.1608911~~)(.1540284).

110 § 17.1-275.3. Fixed felony revocation fee.

111 Upon the partial or full revocation of suspension of sentence or probation of a convicted felon
 112 pursuant to § 19.2-306, other than a revocation for failure to pay previously assessed court costs, there
 113 shall be assessed as court costs a fee of ~~\$133~~ \$142 to be known as the fixed felony revocation fee. A
 114 single fixed felony revocation fee shall be assessed per defendant per hearing without regard to the
 115 number of revocations being considered.

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

- 118 1. Virginia Crime Victim-Witness Fund (~~.0225564~~)(.0845070);
- 119 2. Intensified Drug Enforcement Jurisdiction Fund (~~.0300752~~)(.0281690);
- 120 3. Court reporter fund (~~.2501504~~)(.2342958);

4. Witness expenses/expert witness fund ~~(.0150376)~~(.0140845);
5. Commonwealth's attorney fund (state share) ~~(.0563910)~~(.0528169);
6. Commonwealth's attorney fund (local share) ~~(.0563910)~~(.0528169);
7. Criminal Injuries Compensation Fund ~~(.2255639)~~(.2112676);
8. Regional Criminal Justice Academy Training Fund ~~(.0075188)~~(.0070423);
9. Warrant fee ~~(.0902256)~~(.0845070); and
10. Clerk of the circuit court ~~(.2460902)~~(.2304930).

§ 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~~ \$98.50 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)~~(.1218274);
2. Intensified Drug Enforcement Jurisdiction Fund ~~(.0446927)~~(.0406091);
3. Witness expenses/expert witness fund ~~(.0223464)~~(.0203046);
4. Commonwealth's attorney fund (state share) ~~(.0837989)~~(.0761421);
5. Commonwealth's attorney fund (local share) ~~(.0837989)~~(.0761421);
6. Criminal Injuries Compensation Fund ~~(.2234637)~~(.2030457);
7. Regional Criminal Justice Training Academy Fund ~~(.0111732)~~(.0101523);
8. Warrant fee, as prescribed by § 17.1-272 ~~(.1340782)~~(.1218274); and
9. Clerk of the circuit court ~~(.3631285)~~(.3299492).

§ 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~~ \$79, 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)~~(.0126582);
2. Witness expenses/expert witness fee (General Fund) ~~(.0285714)~~(.0253165);
3. Virginia Crime Victim-Witness Fund ~~(.0428571)~~(.1518987);
4. Intensified Drug Enforcement Jurisdiction Fund ~~(.0571429)~~(.0506329);
5. Criminal Injuries Compensation Fund ~~(.2857143)~~(.2531646);
6. Commonwealth's Attorney Fund (state share) ~~(.0357143)~~(.0316456);
7. Commonwealth's Attorney Fund (local share) ~~(.0357143)~~(.0316456);
8. Regional Criminal Justice Academy Training Fund ~~(.0142857)~~(.0126582);
9. Warrant fee, as prescribed by § 17.1-272 ~~(.1714286)~~(.1518987);
10. Courthouse Construction/Maintenance Fund ~~(.0285714)~~(.0253165); and
11. Clerk of the circuit court ~~(.2857143)~~(.2531646).

§ 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~~ \$295.50, 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)~~(.1269036);
2. Court Reporter Fund ~~(.0174520)~~(.0169205);

- 182 3. Witness expenses/expert witness fee (General Fund) (~~.0069808~~)(.0067682);
 183 4. Virginia Crime Victim-Witness Fund (~~.0104712~~)(.0406091);
 184 5. Intensified Drug Enforcement Jurisdiction Fund (~~.0139616~~)(.0135364);
 185 6. Criminal Injuries Compensation Fund (~~.0698080~~)(.0676819);
 186 7. Commonwealth's Attorney Fund (state share) (~~.0087260~~)(.0084602);
 187 8. Commonwealth's Attorney Fund (local share) (~~.0087260~~)(.0084602);
 188 9. Regional Criminal Justice Academy Training Fund (~~.0034904~~)(.0033841);
 189 10. Warrant fee, as prescribed by § 17.1-272 (~~.0418848~~)(.0406091);
 190 11. Courthouse Construction/Maintenance Fund (~~.0069808~~)(.0067682);
 191 12. Clerk of the circuit court (~~.0698080~~)(.0676819);
 192 13. Forensic laboratory fee (General Fund) (~~.3490401~~)(.3384095); and
 193 14. Drug Offender Assessment and Treatment Fund (~~.2617801~~)(.2538071).
 194 § 17.1-275.9. Fixed misdemeanor revocation fee.

195 In circuit court, when a person is convicted of a misdemeanor not originally charged as a felony and
 196 subsequently suffers partial or full revocation of his suspension of sentence or probation pursuant to
 197 § 19.2-306, he shall be assessed as court costs a fee of ~~\$67~~ \$76 to be known as the fixed misdemeanor
 198 revocation fee. A single fixed misdemeanor revocation fee shall be assessed per defendant per hearing
 199 without regard to the number of misdemeanor revocations being considered, except that if a revocation
 200 of probation or suspended sentence upon a felony conviction is also being considered at the same
 201 revocation proceeding, a single fixed felony revocation fee shall apply instead. The amount collected, in
 202 whole or in part, for the fixed misdemeanor revocation fee shall be apportioned, as provided by law, to
 203 the following funds in the fractional amounts designated:

- 204 1. Virginia Crime Victim-Witness Fund (~~.0447761~~)(.1578947);
 205 2. Intensified Drug Enforcement Jurisdiction Fund (~~.0597015~~)(.0526316);
 206 3. Witness expenses/expert witness fee (General Fund) (~~.0298507~~)(.0263158);
 207 4. Commonwealth's Attorney Fund (state share) (~~.0373134~~)(.0328947);
 208 5. Commonwealth's Attorney Fund (local share) (~~.0373134~~)(.0328947);
 209 6. Criminal Injuries Compensation Fund (~~.2985075~~)(.2631579);
 210 7. Regional Criminal Justice Training Academy Fund (~~.0149254~~)(.0131579);
 211 8. Warrant fee, as prescribed by § 17.1-272 (~~.1791045~~)(.1578947); and
 212 9. Clerk of the circuit court (~~.2985075~~)(.2631579).

213 **2. That the fee for the Virginia Crime Victim-Witness Fund shall increase one dollar each year on**
 214 **July 1 beginning July 1, 2010, until such fee is \$25.**