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SENATE BILL NO. 1078

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 4, 2009)

(Patron Prior to Substitute—Senator Howell)

A BILL to amend and reenact § 37.2-804 of the Code of Virginia, relating to special justices; expenses.

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-804 of the Code of Virginia is amended and reenacted as follows:

§ 37.2-804. Fees and expenses.

A. Any special justice, retired judge sitting by designation pursuant to § 16.1-69.35, or any district court substitute judge who presides over hearings pursuant to the provisions of §§ 37.2-809 through 37.2-820 or Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 shall receive a fee of \$86.25 for each hearing thereunder ~~and~~ *plus* his necessary mileage, *parking, tolls, and postage*, and \$43.25 for each certification hearing and each order under Chapter 11 (§ 37.2-1100 et seq.) ruling on competency or treatment ~~and his necessary mileage~~ *plus his necessary mileage, parking, tolls, and postage*.

B. Any physician, psychologist or other mental health professional, or any interpreter, appointed pursuant to § 37.2-802 for persons who are deaf, who is not regularly employed by the Commonwealth and is required to serve as a witness or as an interpreter in any proceeding under this chapter shall receive a fee of \$75 and his necessary expenses for each commitment hearing for involuntary admission in which he serves and \$43.25 and necessary expenses for each certification hearing in which he serves.

C. Other witnesses regularly summoned before a judge or special justice under the provisions of this chapter shall receive the compensation for their attendance and mileage that is allowed witnesses summoned to testify before grand juries.

D. Every attorney appointed under § 37.2-806 or §§ 37.2-809 through 37.2-820 shall receive a fee of \$75 and his necessary expenses for each hearing thereunder and \$43.25 and his necessary expenses for each certification hearing and each proceeding under Chapter 11 (§ 37.2-1100 et seq.).

E. Except as hereinafter provided, all expenses incurred, including the fees, attendance, and mileage aforesaid, shall be paid by the Commonwealth. When any such fees, costs, and expenses, incurred in connection with an examination or hearing for an admission pursuant to § 37.2-806 or §§ 37.2-809 through 37.2-820, to carry out the provisions of this chapter or in connection with a proceeding under Chapter 11 (§ 37.2-1100 et seq.), are paid by the Commonwealth, they shall be recoverable by the Commonwealth from the person who is the subject of the examination, hearing, or proceeding or from his estate. Collection or recovery may be undertaken by the Department. When the fees, costs, and expenses are collected or recovered by the Department, they shall be refunded to the Commonwealth. No fees or costs shall be recovered, however, from the person who is the subject of the examination or hearing or his estate when no good cause for his admission exists or when the recovery would create an undue financial hardship.