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**SENATE BILL NO. 912**

Offered January 14, 2009

Prefiled January 5, 2009

A *BILL to amend and reenact § 19.2-164 of the Code of Virginia, relating to interpreters for non-English-speaking persons.*

Patrons—Stuart, Obenshain and Smith

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-164 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-164. Interpreters for non-English-speaking persons.

A. In any criminal case in which a non-English-speaking person is the accused, an interpreter for the non-English-speaking person shall be appointed. In any criminal case in which a non-English-speaking person is a victim or witness, an interpreter shall be appointed by the judge of the court in which the case is to be heard unless the court finds that the person does not require the services of a court-appointed interpreter. An English-speaking person fluent in the language of the country of the accused, a victim or a witness shall be appointed by the judge of the court in which the case is to be heard, unless such person obtains an interpreter of his own choosing who is approved by the court as being competent.

B. 1. The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court in accordance with guidelines set by the Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the expense of trial.

2. *Such fee shall be assessed as part of the costs if an interpreter has been appointed for the defendant and the defendant is at trial subsequently convicted of the offense.*

3. *Except as provided in this subsection, Such such* fee shall not be assessed as part of the costs unless (i) an interpreter has been appointed for the defendant, (ii) the defendant fails to appear, (iii) the interpreter appears in the case and no other case on that date, and (iv) the defendant is convicted of a failure to appear on that date the interpreter appeared in the case, then the court, in its discretion, may assess as costs the fee paid to the interpreter. Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in both circuit courts and district courts.

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