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**HOUSE BILL NO. 1018**

Offered January 8, 2014

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*A BILL to amend and reenact §§ 17.1-275 and 17.1-293 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 17.1-293.1, relating to audio and audio-visual records of appellate proceedings; circuit court opinions; fees; access.*

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Patrons—Kilgore and Campbell

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Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 17.1-275 and 17.1-293 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 17.1-293.1 as follows:**

**§ 17.1-275. Fees collected by clerks of circuit courts; generally.**

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$16 for an instrument or document consisting of 10 or fewer pages or sheets; \$30 for an instrument or document consisting of 11 to 30 pages or sheets; and \$50 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$15 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. One dollar and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage pursuant to § 20-25, \$25 to be paid by the petitioner.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all necessary oaths and writing proper affidavits, \$3.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

8. For making out a copy of any paper, record, or electronic record to go out of the office, which is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of this section, the costs of making out the copies authorized under this section shall include costs included in the lease and maintenance agreements for the equipment and the technology needed to operate electronic systems in the clerk's office used to make out the copies, but shall not include salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3704. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$0.50.

INTRODUCED

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59 10. In any case in which a person is convicted of a violation of any provision of Article 1  
60 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk  
61 shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which  
62 shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and  
63 Treatment Fund.

64 11. In any case in which a person is convicted of a violation of any provision of Article 1  
65 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk  
66 shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251,  
67 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and  
68 Treatment Fund as provided in § 17.1-275.8.

69 12. Upon the defendant's being required to successfully complete traffic school or a driver  
70 improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as  
71 if he had been convicted.

72 13. In all civil actions that include one or more claims for the award of monetary damages the clerk's  
73 fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in  
74 cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery  
75 exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding  
76 \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established  
77 under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation  
78 case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in  
79 any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of  
80 a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be  
81 collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be  
82 applicable to cases filed in the Supreme Court of Virginia.

83 13a. For the filing of any petition seeking court approval of a settlement where no action has yet  
84 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the  
85 time of filing the petition.

86 14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by  
87 confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or  
88 certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the  
89 amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering  
90 judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as  
91 prescribed in subdivision A 17.

92 15. For qualifying notaries public, including the making out of the bond and any copies thereof,  
93 administering the necessary oaths, and entering the order, \$10.

94 16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required  
95 thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

96 17. For docketing and indexing a judgment from any other court of the Commonwealth, for  
97 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of  
98 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment  
99 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper  
100 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee  
101 of \$20.

102 18. For all services rendered by the clerk in any court proceeding for which no specific fee is  
103 provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of  
104 filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the  
105 entry of a decree of divorce from the bond of matrimony.

106 19, 20. [Repealed.]

107 21. For making the endorsements on a forthcoming bond and recording the matters relating to such  
108 bond pursuant to the provisions of § 8.01-529, \$1.

109 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

110 23. For preparation and issuance of a subpoena duces tecum, \$5.

111 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,  
112 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to  
113 a divorce.

114 25. For providing court records or documents on microfilm, per frame, \$0.50.

115 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one  
116 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be  
117 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to  
118 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly  
119 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the  
120 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged

for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting such credit or debit card a reasonable convenience fee for the processing of such credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the transaction or a flat fee of \$2 per transaction. Nothing herein shall be construed to prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party private vendor engaged by the clerk.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit or debit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Putative Father Registry Fund pursuant to § 63.2-1249.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125, and 33.1-129, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of \$20.

33. [Repealed.]

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.

35. For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of \$10.

36. [Repealed.]

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$10.

38. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

39. For lodging, indexing and preserving a will in accordance with § 64.2-409, a fee of \$2.

40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

43. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44.

B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

182 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
183 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

184 E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk  
185 into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

186 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the  
187 services above described.

188 *G. Nothing in this chapter shall be construed as prohibiting a clerk from providing public access to,*  
189 *or copies of, circuit court orders and opinions without charging a fee.*

190 **§ 17.1-293. Posting and availability of certain information on the Internet; prohibitions.**

191 A. Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 or subsection B, it shall be unlawful  
192 for any court clerk to disclose the social security number or other identification numbers appearing on  
193 driver's licenses or information on credit cards, debit cards, bank accounts, or other electronic billing and  
194 payment systems that was supplied to a court clerk for the purpose of paying fees, fines, taxes, or other  
195 charges collected by such court clerk. The prohibition shall not apply where disclosure of such  
196 information is required (i) to conduct or complete the transaction for which such information was  
197 submitted or (ii) by other law or court order.

198 B. Beginning January 1, 2004, no court clerk shall post on the Internet any document that contains  
199 the following information: (i) an actual signature, (ii) a social security number, (iii) a date of birth  
200 identified with a particular person, (iv) the maiden name of a person's parent so as to be identified with  
201 a particular person, (v) any financial account number or numbers, or (vi) the name and age of any minor  
202 child.

203 C. Each such clerk shall post notice that includes a list of the documents routinely posted on its  
204 website. However, the clerk shall not post information on his website that includes private activity for  
205 private financial gain.

206 D. Nothing in this section shall be construed to prohibit access to any original document as provided  
207 by law.

208 E. This section shall not apply to the following:

209 1. Providing access to any document among the land records via secure remote access pursuant to  
210 § 17.1-294;

211 2. Postings related to legitimate law-enforcement purposes;

212 3. Postings of historical, genealogical, interpretive, or educational documents and information about  
213 historic persons and events;

214 4. Postings of instruments and records filed or recorded prior to 1907;

215 5. Providing secure remote access to any person, his counsel, or staff which counsel directly  
216 supervises to documents filed in matters to which such person is a party;

217 6. Providing official certificates and certified records in digital form of any document maintained by  
218 the clerk pursuant to § 17.1-258.3:2; and

219 7. Providing secure remote access to nonconfidential court records, subject to any fees charged by  
220 the clerk, to members in good standing with the Virginia State Bar and their authorized agents, pro hac  
221 vice attorneys authorized by the court for purposes of the practice of law, and such governmental  
222 agencies as authorized by the clerk.

223 F. Nothing in this section shall prohibit the Supreme Court or any other court clerk from providing  
224 online access to a case management system that may include abstracts of case filings and proceedings in  
225 the courts of the Commonwealth.

226 G. The court clerk shall be immune from suit arising from any acts or omissions relating to  
227 providing remote access on the Internet pursuant to this section unless the clerk was grossly negligent or  
228 engaged in willful misconduct.

229 This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity  
230 already existing in statutory or common law, or to affect any cause of action accruing prior to July 1,  
231 2005.

232 H. Nothing in this section shall be construed to permit any data accessed by secure remote access to  
233 be sold or posted on any other website or in any way redistributed to any third party, and the clerk, in  
234 his discretion, may deny secure remote access to ensure compliance with these provisions. However, the  
235 data accessed by secure remote access may be included in products or services provided to a third party  
236 of the subscriber provided that (i) such data is not made available to the general public and (ii) the  
237 subscriber maintains administrative, technical, and security safeguards to protect the confidentiality,  
238 integrity, and limited availability of the data. No clerk may restrict the publication, posting on a website,  
239 or redistribution of any court record that the public has a right to access. A clerk may require that a  
240 secure remote access subscriber maintain administrative, technical, and security safeguards to protect  
241 the confidentiality, integrity, and limited availability of nonpublic data and may deny secure remote  
242 access and take any other necessary and proper steps to ensure compliance with such requirements.

243 **§ 17.1-293.1. Appellate oral argument records.**

244 A. The Supreme Court and the Court of Appeals shall arrange for the production of audio or, in  
245 their discretion, audio-visual recordings of oral arguments. Such recordings shall be made publicly  
246 available in electronic format without fee within a reasonable time after the oral arguments take place.

247 B. The Supreme Court and the Court of Appeals shall allow a court reporter to be present for and  
248 to transcribe oral arguments. In its discretion, each court may procure such court reporter services or  
249 may allow a litigant, amicus, or any other person to provide, and bear the costs of, a court reporter.  
250 Whether the court reporter's services are procured by the court or a private party, the court reporter  
251 shall provide the court with a full copy of all transcripts at no cost, and the rates for nongovernmental  
252 copies of transcripts shall be reasonable and shall not exceed the rates that the clerk of court charges  
253 for copies of documents filed in such court.

254 C. The Supreme Court and the Court of Appeals, in their discretion, may adopt such procedures or  
255 regulations as may be necessary to ensure that recordings and court reporting do not disrupt  
256 proceedings.

257 D. Nothing in this section shall be construed to prevent the Supreme Court or the Court of Appeals  
258 from making transcripts publicly available without fee or otherwise providing greater access than is  
259 required by this section.

260 2. That the provisions of this act shall become effective on July 1, 2015, but that nothing in this  
261 act shall be construed to prevent courts and clerks from achieving the ends of this act prior to  
262 that date.