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HOUSE BILL NO. 2326

Offered January 22, 2015

A BILL to amend and reenact §§ 16.1-69.48:1, 17.1-275.2, 17.1-275.7, and 19.2-303.4 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-96.2, relating to deferred disposition for a first offense of petit larceny.

Patron—Lindsey

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:1, 17.1-275.2, 17.1-275.7, and 19.2-303.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-96.2 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, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§ 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-96.2, 18.2-251 or 19.2-303.2; or (vi) proof of compliance with law under §§ 46.2-104 and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 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 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);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund) (.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

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. 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);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);

INTRODUCED

HB2326

- 59 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
60 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).
61 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
62 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
63 law, to the following funds in the fractional amounts designated:
64 1. Processing fee (General Fund) (.764706);
65 2. Virginia Crime Victim-Witness Fund (.058824);
66 3. Regional Criminal Justice Training Academies Fund (.019608);
67 4. Courthouse Construction/Maintenance Fund (.039216);
68 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
69 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

70 **§ 17.1-275.2. Fixed fee for felony reduced to misdemeanor.**

71 In circuit court, upon the conviction of a person of any and each misdemeanor reduced from a felony
72 charge, or upon a deferred disposition of proceedings in the case of any and each misdemeanor reduced
73 from a felony charge and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8,
74 16.1-278.9, 18.2-57.3, 18.2-96.2, or 19.2-303.2, there shall be assessed as court costs a fee of \$227, to
75 be known as the fixed fee for felony reduced to misdemeanor. However, this section shall not apply to
76 those proceedings provided for in § 17.1-275.8.

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

- 79 1. Sentencing/supervision fee (General Fund) (.1695154);
80 2. Forensic science fund (.1707048);
81 3. Court reporter fund (.1465639);
82 4. Witness expenses/expert witness fund (.0088106);
83 5. Virginia Crime Victim-Witness Fund (.0132159);
84 6. Intensified Drug Enforcement Jurisdiction Fund (.0176211);
85 7. Criminal Injuries Compensation Fund (.0881057);
86 8. Commonwealth's attorney fund (state share) (.0881057);
87 9. Commonwealth's attorney fund (local share) (.0881057);
88 10. Regional Criminal Justice Academy Training Fund (.0044053);
89 11. Warrant fee (.0528634);
90 12. Courthouse construction/maintenance fund (.0088106); and
91 13. Clerk of the circuit court (.1431718).

92 **§ 17.1-275.7. Fixed misdemeanor fee.**

93 In circuit court, upon (i) conviction of any and each misdemeanor, not originally charged as a felony;
94 (ii) a deferred disposition of proceedings in the case of any and each misdemeanor not originally
95 charged as a felony and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8,
96 16.1-278.9, 18.2-57.3, 18.2-96.2, or 19.2-303.2; (iii) any and each conviction of a traffic infraction or
97 referral to a driver improvement clinic or traffic school in lieu of a finding of guilt for a traffic
98 infraction; or (iv) proof of compliance with law under §§ 46.2-104 and 46.2-1158.02, there shall be
99 assessed as court costs a fee of \$80, to be known as the fixed misdemeanor fee. However, this section
100 shall not apply to those proceedings provided for in § 17.1-275.8. This fee shall be in addition to any
101 fee assessed in the district court.

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

- 104 1. Sentencing/supervision fee (General Fund) (.0125000);
105 2. Witness expenses/expert witness fee (General Fund) (.0250000);
106 3. Virginia Crime Victim-Witness Fund (.0375000);
107 4. Intensified Drug Enforcement Jurisdiction Fund (.0500000);
108 5. Criminal Injuries Compensation Fund (.2500000);
109 6. Commonwealth's Attorney Fund (state share) (.0937500);
110 7. Commonwealth's Attorney Fund (local share) (.0937500);
111 8. Regional Criminal Justice Academy Training Fund (.0125000);
112 9. Warrant fee, as prescribed by § 17.1-272 (.1500000);
113 10. Courthouse Construction/Maintenance Fund (.0250000); and
114 11. Clerk of the circuit court (.2500000).

115 **§ 18.2-96.2. Persons charged with first offense of petit larceny may be placed on probation;**
116 **conditions; violations; discharge.**

117 When any person is before the court who has not previously (i) been convicted of any offense
118 punishable as larceny in the Commonwealth or any other state or the United States or (ii) had a
119 proceeding against him for violation of such an offense dismissed as provided in this section, the court
120 may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding

of guilt, without entering a judgment of guilt and with the consent of the accused, defer further proceedings and place him on probation subject to appropriate terms and conditions.

Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings against him without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise provided.

§ 19.2-303.4. Payment of costs when proceedings deferred and defendant placed on probation.

A circuit or district court, which has deferred further proceedings, without entering a judgment of guilt, and placed a defendant on probation subject to terms and conditions pursuant to § 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-96.2, 18.2-251 or 19.2-303.2, shall impose upon the defendant costs.