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## SENATE BILL NO. 829

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on January 21, 2015)

(Patron Prior to Substitute—Senator Edwards)

*A BILL to amend and reenact §§ 16.1-69.48:1, 17.1-275.7, and 46.2-1171 of the Code of Virginia, relating to court costs; failure to have motor vehicle inspection; expired inspection sticker.***Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-69.48:1, 17.1-275.7, and 46.2-1171 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, 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, 18.2-251 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);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. 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) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

**§ 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; (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; or (iv) proof of compliance with law under §§ 46.2-104 and ~~46.2-1158.02~~, there shall be assessed as court costs a fee of \$80, 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) (.0125000);
2. Witness expenses/expert witness fee (General Fund) (.0250000);
3. Virginia Crime Victim-Witness Fund (.0375000);
4. Intensified Drug Enforcement Jurisdiction Fund (.0500000);
5. Criminal Injuries Compensation Fund (.2500000);
6. Commonwealth's Attorney Fund (state share) (.0937500);
7. Commonwealth's Attorney Fund (local share) (.0937500);
8. Regional Criminal Justice Academy Training Fund (.0125000);
9. Warrant fee, as prescribed by § 17.1-272 (.1500000);
10. Courthouse Construction/Maintenance Fund (.0250000); and
11. Clerk of the circuit court (.2500000).

**§ 46.2-1171. Penalties for violation of article.**

Any person violating this article shall be guilty of a Class 3 misdemeanor for the first offense and guilty of a Class 1 misdemeanor for each subsequent offense except as otherwise provided in this article. If the violation of this article or regulations of the Superintendent made pursuant thereto is by an official inspection station in addition to or in lieu of such fine imposed by a court the Superintendent may, whether or not the violation is a first offense against this article or regulation of the Superintendent, suspend the appointment of the inspection station or, if in his opinion after a hearing, the facts warrant such action, the Superintendent may revoke the designation of such inspection station.

*The court shall not assess court costs if the violation of this article is dismissed.*