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SENATE BILL NO. 618**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice
on January 24, 2018)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend the Code of Virginia by adding a section numbered 8.01-401.4, relating to testimony of employees of the Department of Forensic Science or Office of the Chief Medical Examiner; fees.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-401.4 as follows:

§ 8.01-401.4. Testimony of employee of the Department of Forensic Science or Office of the Chief Medical Examiner; fee.

A. For the purposes of this section, "forensic report" means a certificate of analysis prepared by an employee of the Department of Forensic Science (Department), duly attested by the person performing the analysis or examination, or a report made by the Chief Medical Examiner, his assistants, or any other medical examiner and the records and certified reports of autopsies made under the authority of Title 32.1, when duly attested by the Chief Medical Examiner or an Assistant Chief Medical Examiner.

B. A party who intends to seek the testimony of an employee of the Department or the Office of the Chief Medical Examiner in a civil case, whether at trial or in a deposition, shall pay reasonable expenses for such testimony. In lieu of offering such testimony at trial, the party who intends to offer the expert testimony may introduce a forensic report prepared by an employee of the Department or the Office of the Chief Medical Examiner, which shall be admissible into evidence for both the facts and opinions stated therein, provided that the party who intends to introduce such forensic report provides notice and a copy of the forensic report to the opposing party and the clerk of the court hearing the matter no later than 30 days prior to the trial. The opposing party may object in writing to the admission of such forensic report by filing such objection with the court, and shall provide a copy to the other party within 10 days after the notice and forensic report were provided to the clerk. If the opposing party does not file a written objection to the admission of the forensic report, the court shall admit the forensic report into evidence at trial. If the opposing party objects to the admission of the forensic report, the court shall order the objecting party to pay the reasonable expenses for the testimony of the employee of the Department or Office of the Chief Medical Examiner.