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HOUSE BILL NO. 749

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 9.1-116.1 and 16.1-69.48:1 of the Code of Virginia, relating to Virginia Sexual and Domestic Violence Victim Fund; purpose; fee apportionment.

Patrons—Bell, Delaney, Glass, McNamara, Ransone, Tata and Williams

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-116.1 and 16.1-69.48:1 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-116.1. Virginia Sexual and Domestic Violence Victim Fund; purpose; guidelines.

A. There is created the Virginia Sexual and Domestic Violence Victim Fund as a special nonreverting fund to be administered by the Department of Criminal Justice Services to support the prosecution of domestic violence cases and victim services.

B. The Department shall adopt guidelines, the purpose of which shall be to make funds available to (i) local attorneys for the Commonwealth for the purpose of funding the cost of additional attorneys or to further dedicate existing resources to prosecute felonies and misdemeanors involving domestic violence, sexual violence, sexual abuse, stalking, and family abuse; ~~and~~; (ii) law-enforcement authorities or appropriate programs, including civil legal assistance, to assist in protecting and providing necessary services to victims of and children affected by domestic violence, sexual abuse, stalking, and family abuse; ~~and~~ (iii) *sexual assault service providers and hospitals for the purpose of funding the cost of salaries and equipment for sexual assault forensic examiners, sexual assault nurse examiners, and pediatric sexual assault nurse examiners with priority for funding such costs given to such forensic examiners and nurse examiners serving rural or underserved areas of the Commonwealth.*

C. A portion of the sum collected pursuant to § 16.1-69.48:1 as specified in that section shall be deposited into the state treasury to the credit of this Fund in addition to any other ~~monies~~ *moneys* appropriated, allocated or received specifically for such purpose. The Fund shall be distributed according to grant procedures adopted pursuant to this section and shall be established on the books of the Comptroller. Any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

D. The Department shall establish a grant procedure to govern funds awarded for this purpose.

§ 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, 4.1-1120, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, 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

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59 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
60 designated:

- 61 1. Processing fee (General Fund) (~~.573770~~) (.5388152645);
- 62 2. Virginia Crime Victim-Witness Fund (.049180);
- 63 3. Regional Criminal Justice Training Academies Fund (.016393);
- 64 4. Courthouse Construction/Maintenance Fund (.032787);
- 65 5. Criminal Injuries Compensation Fund (.098361);
- 66 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 67 7. Sentencing/supervision fee (General Fund) (.131148); and
- 68 8. Virginia Sexual and Domestic Violence Victim Fund (~~.032787~~) (.0677417355).

69 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1
70 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
71 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
72 the following funds in the fractional amounts designated:

- 73 1. Processing fee (General Fund) (.257353);
- 74 2. Virginia Crime Victim-Witness Fund (.022059);
- 75 3. Regional Criminal Justice Training Academies Fund (.007353);
- 76 4. Courthouse Construction/Maintenance Fund (.014706);
- 77 5. Criminal Injuries Compensation Fund (.044118);
- 78 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 79 7. Drug Offender Assessment and Treatment Fund (.551471);
- 80 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 81 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

82 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
83 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
84 law, to the following funds in the fractional amounts designated:

- 85 1. Processing fee (General Fund) (~~.764706~~) (.72549);
- 86 2. Virginia Crime Victim-Witness Fund (.058824);
- 87 3. Regional Criminal Justice Training Academies Fund (.019608);
- 88 4. Courthouse Construction/Maintenance Fund (.039216);
- 89 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 90 6. Virginia Sexual and Domestic Violence Victim Fund (~~.039216~~) (.078432).