

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 51

An Act to amend and reenact §§ 14.1-69, 14.1-93, 14.1-95, 14.1-105, 14.1-108, 19.2-338 and 55-248.31:1 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 14.1-95.1 and 14.1-111.1; and to repeal §§ 14.1-109 and 14.1-111 of the Code of Virginia, relating to sheriff's fees; appropriation.

[S 560]

Approved February 17, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 14.1-69, 14.1-93, 14.1-95, 14.1-105, 14.1-108, 19.2-338 and 55-248.31:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 14.1-95.1 and 14.1-111.1 as follows:

§ 14.1-69. Fees and mileage allowances.

Every sheriff, and every sheriff's deputy, shall, however, continue to collect all fees and mileage allowances provided by law for the services of such officer, other than such as he would have been entitled to receive from the Commonwealth or from the county or city for which he is elected or appointed and fees and mileage allowances provided for services in connection with the prosecution of any criminal matter in the circuit courts. Such fees and mileage allowances accruing in connection with any ~~such~~ *civil or* criminal matter shall be collected by the clerk of the ~~circuit~~ court in which the ~~prosecution is had~~ *case is heard*. Such fees as are collected by the clerk of the ~~circuit court~~ shall be paid by him into the treasury of the county or city for which the sheriff, on account of whose services such fees are collected, is elected or appointed. All fees collected by or for every sheriff and deputy shall be paid into the treasury of the county or city for which he is elected or appointed, on or before the tenth day of the month next succeeding that in which the same are collected. The treasurer of each county and city shall credit ~~one third~~ of such amounts to the ~~general fund of his county or city and credit two-thirds thereof in excess of such fees received in fiscal year 1994~~ to the account of the Commonwealth to be remitted to the State Treasurer along with other funds due to the Commonwealth.

§ 14.1-93. For return when no levy made, etc.

Whenever on any decree of judgment in a civil case any fieri facias issued by the clerk of any court is placed in the hands of any officer and no levy is made or forthcoming bond is taken thereon, and a return is made by the officer, the officer so making a return thereon shall be allowed a fee of ~~fifty cents~~ *twelve dollars* for making the return.

§ 14.1-95. Fee when no sale made under levy.

When, after distraining or levying on tangible property the officer neither sells nor receives payment and either takes no forthcoming bond or takes one which is not forfeited, he shall, if not in default, have in addition to the sixty cents for a bond if one was taken a fee of ~~three~~ *twelve* dollars, unless this is more than one-half of what his commission would have amounted to if he had received payment, in which case he shall, whether a bond was taken or not, have a fee of at least one dollar and so much more as is necessary to make such half.

§ 14.1-95.1. *Fee for levy on cash, etc., by writ of fieri facias.*

When a levy is made upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478, the officer shall be allowed a fee of twelve dollars.

§ 14.1-105. Process and service fees generally.

The fees shall be as follows:

(1) For service on any person, firm or corporation, a declaration in ejectment, order, notice, summons or any other civil process, except as herein otherwise provided, and for serving on any person, firm, or corporation any process when the body is not taken and making a return thereof, the sum of ~~five~~ *twelve* dollars except that no fee shall be charged for service pursuant to § 9-6.14:13.

(2) For summoning a witness or garnishee on an attachment, ~~two~~ *twelve* dollars.

(3) For serving on any person an attachment or other process under which the body is taken and making a return thereon, ~~five~~ *twelve* dollars.

(4) ~~For receiving and discharging a person in jail, four dollars.~~

(5) ~~For carrying a prisoner to or from jail and every mile of necessary travel, an amount equivalent to the necessary toll and ferry charges incurred by the officer, if any, and such reimbursement for his daily mileage as prescribed in § 14.1-5, which shall be charged and taxed as a part of the court cost.~~

(6) For serving any order of court not otherwise provided for, ~~four~~ *twelve* dollars. *Notwithstanding the provisions of this subsection, no fees shall be charged for protective orders issued pursuant to Chapter 11 (§ 16.1-226, et seq.) of Title 16.1.*

(7) For serving a writ of possession, ~~four~~ *twelve* dollars.

(8) For levying an execution or distress warrant or an attachment, ~~four~~ *twelve* dollars.

(9) For serving any papers returnable out of state, ~~fifteen~~ *fifty* dollars.

Such fees shall be allowable ~~only~~ for services provided by such officers in the circuit courts. However, for services set forth under subdivisions (3), (7) and (8), the designated fees shall be paid in both the circuit and district courts.

§ 14.1-108. Commission on forthcoming bond.

The commission to be included in a forthcoming bond, when one is taken, shall be ~~ten percent of the first \$100 of the money for which the distress or levy is, five percent on the next \$400 and two percent on the residue of such money five percent.~~ Such commission shall not be received unless the bond is forfeited or paid, including the commission, to the plaintiffs. Of whatever interest accrues on such bond, or the execution of judgment thereon, the officer shall be entitled to his proportionable share, on account of his fees included in such bond.

§ 14.1-111.1. Fees in criminal cases.

A fee of twelve dollars shall be charged to a defendant found guilty in a criminal case coming before a circuit court (i) as costs for serving a warrant or summons other than on a witness when no arrest is made or (ii) as costs for making an arrest upon a misdemeanor or felony charge.

§ 19.2-338. Collection by town of cost of transporting prisoners.

(1) Notwithstanding any provision of any charter or any law to the contrary, any town may provide that any person convicted of violating any ordinance of the town may be charged, in addition to all other costs, fines, fees and charges, the costs of transporting such person so convicted to and from a jail or other penal institution outside the corporate limits of such town designated by the town as a place of confinement for persons arrested for violating the ordinances of the town and required to be held in jail pending trial upon such charge. The cost of such transportation shall be taxed as a part of the costs payable by persons convicted of violating such ordinances ~~and the costs shall be taxed in accordance with the schedules provided in §§ 14.1-105 and 14.1-111 of the Code of Virginia.~~

(2) No officer transporting any person convicted of violating any ordinance of the town, as provided in subsection (1) hereof, shall charge or be paid, nor shall such town receive directly or indirectly, more than the cost of transporting such person when more than one person is transported.

§ 55-248.31:1. Sheriffs authorized to serve certain notices; fees therefor.

The sheriff of any county or city, upon request, may deliver any notice to a tenant on behalf of a landlord or lessor under the provisions of § 55-225 or § 55-248.31. For this service, the sheriff shall be allowed a fee not to exceed ~~two~~ *twelve* dollars.

2. That §§ 14.1-109 and 14.1-111 of the Code of Virginia are repealed.

3. That the provisions of this act shall become effective on July 1, 1995.

4. That, of the amounts deposited to the account of the Commonwealth pursuant to this act, the sum of \$24,940,663 is hereby appropriated to the State Compensation Board in fiscal year 1995-96, for the purpose of paying the state share of fringe benefit costs of constitutional officers and constitutional office positions approved by the Compensation Board, notwithstanding § 4-11.00 of Chapter 966, 1994 Acts of Assembly. Following the close of the fiscal year ending June 30, 1996, the Comptroller shall certify the amount of revenues deposited to the general fund during that year which are attributable to fees for service of process by sheriffs' departments. To the extent that such revenues, which result from legislation adopted at the 1995 General Assembly, exceed the cost of the state for fringe benefits for local Constitutional officers and their employees, such excess shall be returned to local governments.