

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 434

An Act to amend and reenact §§ 8.01-446 and 19.2-305.1 of the Code of Virginia, relating to orders of restitution.

[H 1704]

Approved March 20, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-446 and 19.2-305.1 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-446. Clerks to keep judgment dockets; what judgments to be docketed therein.

The clerk of each court of every circuit shall keep in his office, in a well-bound book, a judgment docket, in which he shall docket, without delay, any judgment for a specific amount of money rendered in his court, and shall likewise docket without delay any judgment for a specific amount of money rendered in this Commonwealth by any other court of this Commonwealth or federal court, when he shall be required so to do by any person interested, on such person delivering to him an authenticated legible abstract of it and also upon the request of any person interested therein, any such judgment rendered by a district court judge whose book has been filed in his office under the provisions of Title 16.1 or of which a legible abstract is delivered to him certified by the district court judge who rendered it; provided, that judgments docketed in the clerk's office of the Circuit Court of the City of Williamsburg and the County of James City shall be docketed and indexed in one book; and provided further that the clerk of the circuit court of any county using card files on July 1, 1975, in lieu of a book may continue to use the card file system. A specific judgment for money shall state that it is a judgment for money in a specific amount in favor of a named party, against a named party, with that party's address, if known, and it shall further state the time from which the judgment bears interest. *An order of restitution docketed pursuant to § 19.2-305.2 shall have the same force and effect as a specific judgment for money and shall state that it is an order of restitution in a specific amount in favor of a named party, against a named party, with that party's address, if known, and it shall further state the time from which the judgment bears interest.* If the clerk determines that an abstract is not legible, the clerk shall refuse to record it and shall return it to the person who tendered the abstract for recording.

§ 19.2-305.1. Restitution for property damage or loss; community services.

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, except the provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, on or after July 1, 1977, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. *The plan shall include the defendant's home address, place of employment and address, social security number and bank information.* If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. If the court suspends a portion of any sentence imposed, it may order that restitution shall commence upon the release of such person.

C. At the time of sentencing, the court, in its discretion, shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order may specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

D. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.