

LD6349722

SENATE BILL NO. 872

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Courts of Justice
on February 2, 1995)

(Patron Prior to Substitute—Senator Norment)

A BILL to amend and reenact §§ 19.2-305, 19.2-335 and 19.2-336 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-303.3 relating to court costs; deferred proceedings.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-305, 19.2-335 and 19.2-336 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-303.3 as follows:

§ 19.2-303.3. Payment of costs when proceedings deferred and defendant placed on probation.

A circuit or district court, which has deferred further proceedings, without entering a judgment of guilt, and placed a defendant on probation subject to terms and conditions pursuant to §§ 16.1-278.8, 16.1-278.9, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-251 or § 19.2-303.2, may impose upon the defendant costs.

§ 19.2-305. Requiring fines, costs, restitution for damages, support or community services from probationer.

A. While on probation the defendant may be required to pay in one or several sums a fine or costs, or both such fine and costs, imposed at the time of being placed on probation as a condition of such probation, and the failure of the defendant to pay such fine or costs, or both such fine and costs, at the prescribed time or times may be deemed a breach of such probation. *The provisions of this subsection shall also apply to any person ordered to pay costs pursuant to § 19.2-303.3.*

~~The~~ B. A defendant placed on probation following conviction may be required to make at least partial restitution or reparation to the aggrieved party or parties for damages or loss caused by the offense for which conviction was had, or may be required to provide for the support of his wife or others for whose support he may be legally responsible, or may be required to perform community services. The defendant may submit a proposal to the court for making restitution, for providing for support or for performing community services.

§ 19.2-335. Judge of district court to certify to clerk of circuit court costs of proceedings in criminal cases before him.

A judge of a district court ~~not of record~~ before whom there is any proceeding in a criminal case, including any proceeding which has been deferred upon probation of the defendant pursuant to §§ 16.1-278.8, 16.1-278.9, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-251 or § 19.2-303.2, shall certify to the clerk of the circuit court of his county or city, and a judge or court before whom there is, in a criminal case, any proceeding preliminary to conviction in another court, upon receiving information of the conviction from the clerk of the court wherein it is, shall certify to such clerk, all the expenses incident to such proceedings which are payable out of the state treasury.

§ 19.2-336. Clerk to make up statement of whole cost, and issue execution therefor.

In every criminal case the clerk of the circuit court in which the accused is found guilty or is placed on probation during deferral of the proceedings pursuant to §§ 16.1-278.8, 16.1-278.9, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-251 or § 19.2-303.2, or, if the conviction be before a court not of record is in a district court, the clerk to which the judge thereof certifies as aforesaid, shall, as soon as may be, make up a statement of all the expenses incident to the prosecution, including such as are certified under § 19.2-335, and execution for the amount of such expenses shall be issued and proceeded with; ~~and~~ Chapter 21 (§ 19.2-339 et seq.) of this title shall apply thereto in like manner as if, on the day of completing the statement, there was a judgment in such court in favor of the Commonwealth against the accused for such amount as a fine; ~~provided, however, that in~~ *However, in* any case in which an accused waives trial by jury, at least ten days before trial, but the Commonwealth or the court trying the case refuses to so waive, then the cost of the jury shall not be included in such statement or judgment.