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**HOUSE BILL NO. 988****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice  
on February 16, 1998)

(Patron Prior to Substitute—Delegate McEachin)

A *BILL to amend the Code of Virginia by adding in Chapter 3 of Title 14.1 a section numbered 14.1-201.1, relating to attorney's fees for certain prevailing parties.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 3 of Title 14.1 a section numbered 14.1-201.1 as follows:**

*§ 14.1-201.1. Attorney's fees for certain civil rights violations.*

*A. If, in a civil case, a state trial court enters an order finding that an officer or employee of the Commonwealth, a locality as defined in § 15.2-102, or an officer or employee of a locality or any agency thereof, has taken action which deprives any natural person of life, liberty, or property without due process of law, or which denies to any natural person within its jurisdiction the equal protection of the law, including actions which (i) discriminate on the basis of race, religion or sex or (ii) violate fundamental rights and duties of a parent to direct the upbringing and education of his child, then the court shall allow such party denied or deprived, if represented by counsel, a reasonable attorney's fee.*

*B. Any attorney's fee requested may be reduced or disallowed, in the discretion of the court, for failure to abide by reasonable billing practices, abuse of process, or any other misconduct as may be determined by the court. In any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, such officer shall not be liable for any costs, including attorney's fees.*

*C. This section creates no new right of action, and its application shall be limited to those actions, procedures and remedies, if any, afforded by existing state law or local ordinance.*

*D. Nothing in this section shall be construed to waive or diminish the sovereign immunity of the Commonwealth and its officers or employees, or the Eleventh Amendment immunity of the Commonwealth and its officers and employees from suit in the federal courts.*

*E. This section shall not be applicable to the following actions or proceedings, or to any judicial or administrative actions or proceedings arising therefrom or relating thereto: (i) common law coram nobis, or habeas corpus under Article 3 (§ 8.01-654 et seq.) of Chapter 25 of Title 8.01; (ii) civil forfeiture proceedings governed by Article 3 (§ 4.1-333 et seq.) of Chapter 3 of Title 4.1 and Chapters 21.2, 22 and 22.1 (§ 19.2-368.19 et seq.) of Title 19.2; (iii) habitual offender proceedings under Article 9 (§ 46.2-351 et seq.) of Chapter 3 of Title 46.2; (iv) administrative license suspension pursuant to § 46.2-391.2; (v) petitions for writs of mandamus or prohibition in connection with criminal proceedings; (vi) matters relating to the assessment or collection of any tax; (vii) matters relating to the Administrative Process Act (§ 9-6.14:1 et seq.); (viii) employee grievance procedures under Title 2.1 or Title 15.2; (ix) matters relating to the State Corporation Commission; (x) matters relating to the Public Procurement Act (§ 11-35 et seq.); (xi) any cause of action for which attorney's fees are otherwise provided by law.*