

994736722

SENATE BILL NO. 444

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on November 23, 1998)

(Patron Prior to Substitute—Senator Norment)

A BILL to amend and reenact §§ 15.2-1627.3, 17.1-275, 17.1-281, 19.2-165, 19.2-354, 53.1-131.1 and 53.1-150 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4 and 17.1-275.5, relating to the fixed felony fee, fixed fee for felony reduced to misdemeanor, and fixed revocation fees.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1627.3, 17.1-275, 17.1-281, 19.2-165, 19.2-354, 53.1-131.1 and 53.1-150 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4 and 17.1-275.5 as follows:

§ 15.2-1627.3. Attorneys for the Commonwealth and city attorneys; in criminal cases; when no costs or fees taxed.

The fees of attorneys for the Commonwealth in all felony and misdemeanor cases ~~and the fees of city attorneys in all misdemeanor cases~~ in which there is a conviction and sentence not set aside on appeal or a judgment for costs against the prosecutor, and for expenditures made in the discharge of his duties shall be as follows:

For each trial of a *single count* felony case in his circuit court, in which only one person is tried at a time; if the punishment prescribed may be death, twenty dollars; if the punishment prescribed is less than death, ten dollars; but where two or more persons are jointly indicted and jointly tried for a felony, in addition to the fees above provided, ten dollars for each person more than one so jointly tried. For each person prosecuted by him at a preliminary hearing upon a charge of felony before any court or judge of his county or city, five dollars indictment, fifteen dollars.

For each trial of a multiple count felony indictment, fifteen dollars per count.

For each person tried for a misdemeanor in his circuit court, five dollars, and for each person prosecuted by him before such court of his county or city for a misdemeanor, which he is required by law to prosecute, or upon an indictment found by a grand jury, five dollars, and in every misdemeanor case so prosecuted the court or judge shall tax in the costs and enter judgment for such misdemeanor fee.

No attorney for the Commonwealth or city attorney shall receive a fee for appearing in misdemeanor cases before a district court notwithstanding any provision of law to the contrary.

No costs or fees shall be taxed for, or in any way allowed to, an attorney for the Commonwealth of any city or county or a city attorney of any city in any case, unless he in person, or by a duly authorized assistant, actually appears and prosecutes the proceedings before the court.

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. When a writing is admitted to record under Chapter 2 (§ 17.1-200 et seq.) of this title, or Chapter 5 (§ 55-80 et seq.) or Chapter 6 (§ 55-106 et seq.) of Title 55, for everything relating to it, except the recording in the proper book; for receiving proof of acknowledgments, entering orders, endorsing clerk's certificate, and when required, embracing it in a list for the commissioner of the revenue, one dollar.

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, thirteen dollars, including the fee of one dollar set forth in subdivision A 1 for up to four pages and one dollar for each page over four pages, and for recording plats too large to be recorded in the deed books, and for each sheet thereof, thirteen dollars. This fee shall be in addition to the fee for recording a deed or other instrument recorded in conjunction with such plat sheet or sheets including the fee of one dollar set forth in subdivision A 1. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. In addition, a fee of one dollar shall be charged for indexing any document for each name indexed exceeding a total of ten in number. One dollar of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, twenty dollars for estates not exceeding \$50,000, twenty-five dollars for estates not exceeding \$100,000 and thirty dollars for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, ten dollars.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, ten dollars.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4 of this section, administering all necessary oaths and writing proper affidavits, three dollars.

7. For issuing any execution, and recording the return thereof, \$1.50 and for all services rendered by the clerk in any garnishment or attachment proceeding the clerk's fee shall be fifteen dollars in cases not exceeding \$500 and twenty-five dollars in all other cases.

8. For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of fifty cents for each page. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge two dollars and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional fifty cents.

10. a. Upon conviction in felony cases or when a felony defendant's suspension of sentence and probation is revoked pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall charge the defendant thirty-six dollars in each case, one dollar of which shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § 9-178.2, to be used for financial support of the regional criminal justice training academies.

b. In addition, in each *In any* case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of \$100 for each felony conviction and each felony disposition under § 18.2-251 and (ii) a fee of \$100 per case for any forensic laboratory analysis performed for use in prosecution of such violation. Such fees shall be taxed as costs to the defendant and shall be paid into the general fund of the state treasury.

c. In addition, in all felony cases, including the revocation of suspension of sentence and probation held pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall collect and tax as costs (i) the expense of reporting or recording the trial or hearing in an amount equal to the per diem charges of the reporter or reasonable charge attributable to the cost of operating the mechanical or electronic devices in accordance with § 19.2-165, (ii) a fee of two dollars and fifty cents per charge, (iii) the fees of the attorney for the Commonwealth as provided for in § 15.2-1627.3, (iv) the compensation of court-appointed counsel as provided in § 19.2-163, (v) the fees of the public defenders as provided for in § 19.2-163.2, (vi) the additional costs per charge imposed under § 19.2-368.18 to be deposited into the Criminal Injuries Compensation Fund, and (vii) in any court of record in which electronic devices are used for the purpose of recording testimony, a sum not to exceed twenty dollars for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service contracts.

d. In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by the sheriff.

11. a. Upon conviction in misdemeanor cases, the clerk shall charge the defendant twenty-six dollars in each case. Sums shall be collected for and paid to the benefit of the Virginia Crime Victim-Witness Fund as provided for in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § 9-178.2, to be used for financial support of the regional criminal justice training academies, irrespective of whether the defendant was convicted of a misdemeanor chargeable under the Code of Virginia or pursuant to a local ordinance.

b. In addition, in each case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of fifty dollars for each misdemeanor conviction and (ii) a fee of \$100 per case for any forensic laboratory analysis performed for use in prosecution of such violation. Such fees shall be taxed as costs to the defendant and shall be paid into the general fund of the state treasury.

c. In addition, for each misdemeanor case the clerk shall collect and tax as costs (i) the fees of the attorneys for the Commonwealth as provided for in § 15.2-1627.3, (ii) the compensation of court-appointed counsel as provided in § 19.2-163, (iii) the fees of the public defenders as provided for in § 19.2-163.2, (iv) the additional costs imposed under § 19.2-368.18 to be deposited into the Criminal Injuries Compensation Fund, and (v) in any court in which electronic devices are used for the purpose of recording testimony, a sum not to exceed five dollars for each day or part of a day of the trial to be

122 paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing
123 such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices
124 in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service
125 contracts.

126 d. In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case
127 in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest
128 is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by
129 the sheriff.

130 12. Upon the defendant's being required to successfully complete traffic school or a driver
131 improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as
132 if he had been convicted.

133 13. In all actions at law the clerk's fee chargeable to the plaintiff shall be fifty dollars in cases not
134 exceeding \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000; and
135 in condemnation cases, a fee of twenty-five dollars, to be paid by the plaintiff at the time of instituting
136 the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing of a
137 cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be
138 charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the filing
139 of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed
140 in the Supreme Court of Virginia.

141 14. In addition to the fees chargeable for actions at law, for the costs of proceedings for judgments
142 by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered
143 or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the
144 amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering
145 judgment, twelve dollars, and (iv) for docketing the judgment and issuing executions thereon, the same
146 fees as prescribed in subdivision A 17.

147 15. For qualifying notaries public, including the making out of the bond and any copies thereof,
148 administering the necessary oaths, and entering the order, ten dollars.

149 16. For each habeas corpus proceeding, the clerk shall receive ten dollars for all services required
150 thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

151 17. For docketing and indexing a judgment from any other court of this Commonwealth, for
152 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
153 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
154 pursuant to § 8.01-452, a fee of five dollars; and for issuing an abstract of any recorded judgment, when
155 proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign
156 judgment, a fee of twenty dollars.

157 18. For all services rendered by the clerk in any court proceeding for which no specific fee is
158 provided by law, the clerk shall charge ten dollars, to be paid by the party filing said papers at the time
159 of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the
160 entry of a decree of divorce from the bond of matrimony.

161 19. For receiving and processing an application for a tax deed, ten dollars.

162 20. For all services rendered by the clerk in any condemnation proceeding instituted by the
163 Commonwealth, twenty-five dollars.

164 21. For making the endorsements on a forthcoming bond and recording the matters relating to such
165 bond pursuant to the provisions of § 8.01-529, one dollar.

166 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ten
167 dollars.

168 23. For preparation and issuance of a subpoena duces tecum or a summons for interrogation by an
169 execution creditor, five dollars.

170 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
171 twenty dollars; however, this subdivision shall not be applicable in cases where the change of name is
172 incident to a divorce.

173 25. For providing court records or documents on microfilm, per frame, ten cents.

174 26. In all chancery causes, the clerk's fee chargeable to the plaintiff shall be fifty dollars to be paid
175 by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified
176 copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any pending
177 suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree
178 of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of
179 both such decrees.

180 27. For the acceptance of credit cards in lieu of money to collect and secure all fees, fines,
181 restitution, forfeiture, penalties and costs in accordance with § 19.2-353.3, the clerk shall collect a
182 service charge of four percent of the amount paid.

183 28. For the return of any check unpaid by the financial institution on which it was drawn or notice is
184 received from the credit card issuer that payment will not be made for any reason, the clerk shall
185 collect, if allowed by the court, a fee of twenty dollars or ten percent of the amount to be paid,
186 whichever is greater, in accordance with § 19.2-353.3.

187 29. For all services rendered in an adoption proceeding, a fee of twenty dollars, in addition to the fee
188 imposed under § 63.1-236.1, to be paid by the petitioner or petitioners.

189 30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the
190 same amount as the fee for the original license.

191 31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of five
192 dollars to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided
193 for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same
194 fee as for recording a deed as provided for in this section, to be paid by the party upon whose request
195 such certificate is recorded or order is entered.

196 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme
197 Court, including all papers necessary to be copied and other services rendered, *except in felony cases*, a
198 fee of twenty dollars.

199 33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, twenty-five cents.

200 34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees
201 shall be as prescribed in that Act.

202 35. For filing the appointment of a resident agent for a nonresident property owner in accordance
203 with § 55-218.1, a fee of one dollar.

204 36. For filing power of attorney for service of process, or resignation or revocation thereof, in
205 accordance with § 59.1-71, a fee of twenty-five cents.

206 37. For recordation of certificate and registration of names of nonresident owners in accordance with
207 § 59.1-74, a fee of ten dollars.

208 38. For maintaining the information required under the Overhead High Voltage Line Safety Act
209 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

210 39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of two dollars.

211 40. For filing a financing statement in accordance with § 8.9-403, the fee shall be as prescribed
212 under that section.

213 41. For filing a termination statement in accordance with § 8.9-404, the fee shall be as prescribed
214 under that section.

215 42. For filing assignment of security interest in accordance with § 8.9-405, the fee shall be as
216 prescribed under that section.

217 43. For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ten dollars.

218 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, 10, 11, 13, 16,
219 18 if applicable, 20, 22, 24, 26, 29, and 31 to be designated for courthouse construction, renovation or
220 maintenance.

221 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if
222 applicable, 20, 22, 24, 26, 29 and 31 to be designated for services provided for the poor, without
223 charge, by a nonprofit legal aid program.

224 D. In accordance with § 9-178.1, the clerk shall collect fees under subdivisions A 10 and 11 to be
225 designated for the Intensified Drug Enforcement Jurisdiction Fund.

226 E. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if
227 applicable, 20, 22, 24, 26, 29 and 31 to be designated for public law libraries.

228 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the
229 services above described.

230 § 17.1-275.1. *Fixed felony fee.*

231 *Upon conviction of any and each felony charge or upon a deferred disposition of proceedings in*
232 *circuit court in the case of any and each felony disposition deferred pursuant to the terms and*
233 *conditions of § 16.1-278.8, 16.1-278.9, 18.2-61, 18.2-67.1, 18.2-67.2:1, 18.2-251, or § 19.2-303.2, there*
234 *shall be assessed as court costs a fee of \$348, to be known as the fixed felony fee.*

235 *The fixed felony fee shall be apportioned, as provided by law, to the following funds in the fractional*
236 *amounts designated:*

237 1. *Supervision fund (.5070114); 2. Forensic science fund (.1113505); 3. Court reporter fund*
238 *(.0956034); 4. Witness expenses/expert witness fund (.0057471); 5. Victim/witness services fund*
239 *(.0086206); 6. Intensified Drug Enforcement Jurisdiction Fund (.0057471); 7. Criminal Injuries*
240 *Compensation Fund (.0862068); 8. Commonwealth's attorney fund (state share) (.0215517); 9.*
241 *Commonwealth's attorney fund (local share) (.0215517); 10. Regional training academies fund*
242 *(.0028735); 11. Warrant fee (.0344827); 12. Courthouse construction/maintenance fund (.0057471);*
243 *and 13. Clerk of the circuit court (.0935057).*

244 § 17.1-275.2. *Fixed fee for felony reduced to misdemeanor.*

Upon the conviction of a person of any and each misdemeanor reduced from a felony charge, there shall be assessed as court costs a fee of \$200, to be known as the fixed fee for felony reduced to misdemeanor.

The fixed fee for felony reduced to misdemeanor shall be apportioned to the following funds in the fractional amounts designated:

1. Supervision fund (.19240); 2. Forensic science fund (.19375); 3. Court reporter fund (.16635); 4. Witness expenses/expert witness fund (.01000); 5. Victim/witness services fund (.01500); 6. Intensified Drug Enforcement Jurisdiction Fund (.01000); 7. Criminal Injuries Compensation Fund (.10000); 8. Commonwealth's attorney fund (state share) (.03750); 9. Commonwealth's attorney fund (local share) (.03750); 10. Regional training academies fund (.00500); 11. Warrant fee (.06000); 12. Courthouse construction/maintenance fund (.01000); and 13. Clerk of the circuit court (.16250).

§ 17.1-275.3. Fixed felony revocation fee.

Upon the partial or full revocation of suspension of sentence or probation of a convicted felon pursuant to § 19.2-306, other than a revocation for failure to pay previously assessed court costs, there shall be assessed as court costs a fee of \$131 to be known as the fixed felony revocation fee. A single fixed felony revocation fee shall be assessed per defendant per hearing without regard to the number of revocations being considered.

The fixed felony revocation fee shall be apportioned to the following funds in the fractional amounts designated:

1. Victim/witness services fund (.0229007); 2. Intensified Drug Enforcement Jurisdiction Fund (.0152671); 3. Court reporter fund (.2539694); 4. Witness expenses/expert witness fund (.0152671); 5. Commonwealth's attorney fund (state share) (.0572519); 6. Commonwealth's attorney fund (local share) (.0572519); 7. Criminal Injuries Compensation Fund (.2290076); 8. Regional training academies fund (.0076335); 9. Warrant fee (.0916030); and 10. Clerk of the circuit court (.2498447).

§ 17.1-275.4. Fixed misdemeanor revocation fee.

When a person whose charge was reduced from a felony charge is convicted of a misdemeanor and subsequently suffers partial or full revocation of his suspension of sentence or probation pursuant to § 19.2-306, other than a revocation for failure to pay previously assessed court costs, he shall be assessed as court costs a fee of \$87.50 to be known as the fixed misdemeanor revocation fee. A single fixed misdemeanor revocation fee shall be assessed per defendant per hearing without regard to the number of misdemeanor revocations being considered except that if a revocation of probation or suspended sentence upon a felony conviction is also being considered at the same revocation proceeding, a single fixed felony revocation fee shall apply instead. The fixed misdemeanor revocation fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Victim/witness services fund (.0342857); 2. Intensified Drug Enforcement Jurisdiction Fund (.0228571); 3. Witness expenses/expert witness fund (.0228571); 4. Commonwealth's attorney fund (state share) (.0857142); 5. Commonwealth's attorney fund (local share) (.0857142); 6. Criminal Injuries Compensation Fund (.2285714); 7. Regional training academies fund (.0114285); 8. Warrant fee (.1371428); and 9. Clerk of the circuit court (.3714285).

§ 17.1-275.5. Amounts to be added; judgment in favor of the Commonwealth.

A. The clerk shall assess, in addition to the fixed felony fee, the fixed fee for felony reduced to misdemeanor, or the fixed revocation fee, as the case may be, the following costs:

1. Any amount paid by the Commonwealth for legal representation of the defendant;

2. Any amount paid for trial transcripts;

3. Extradition costs;

4. Costs of psychiatric evaluation;

5. Costs taxed against the defendant as appellant under Rule 5A:30 of the Rules of the Supreme Court.

6. Any fee for a returned check or disallowed credit card charge assessed pursuant to § 17.1-275 A 28;

7. Any jury costs; and

8. Any assessment made pursuant to § 17.1-275 A 10.

B. The total amount of assessments described in subsection A of this section, including the fixed felony fee, fixed fee for felony reduced to misdemeanor, fixed felony revocation fee, or fixed misdemeanor revocation fee, as the case may be, and no other, shall be forthwith docketed by the clerk as a judgment against the defendant in favor of the Commonwealth.

§ 17.1-281. Assessment for courthouse construction, renovation or maintenance.

Any county or city, through its governing body, may assess a sum not in excess of two dollars as part of the costs in (i) each civil action filed in the district or circuit courts located within its boundaries and (ii) each criminal or traffic case in its district or circuit court in which the defendant is charged with

306 a violation of any statute or ordinance. The total assessments authorized by any county or city in a civil
307 action pursuant to this section and § 42.1-70 shall not exceed four dollars. If a town provides court
308 facilities for a county, the governing body of the county shall return to the town a portion of the
309 assessments collected based on the number of civil, criminal and traffic cases originating and heard in
310 the town.

311 The imposition of such assessment shall be by ordinance of the governing body which may provide
312 for different sums in circuit courts and district courts. The assessment shall be collected by the clerk of
313 the court in which the action is filed, remitted to the treasurer of the appropriate county or city and held
314 by such treasurer subject to disbursements by the governing body for the construction, renovation, or
315 maintenance of courthouse or jail and court-related facilities and to defray increases in the cost of
316 heating, cooling, electricity, and ordinary maintenance.

317 The assessment provided for herein shall be in addition to any other fees prescribed by law. *The*
318 *assessment shall be required in each felony case regardless of the existence of a local ordinance*
319 *requiring its payment.*

320 § 19.2-165. Recording evidence and incidents of trial in felony cases; cost of recording; cost of
321 transcripts; certified transcript deemed prima facie correct; request for copy of transcript.

322 In all felony cases, the court or judge trying the case shall by order entered of record provide for the
323 recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or
324 electronic devices approved by the court. The expense of reporting or recording the trial of criminal
325 cases shall be paid by the Commonwealth out of the appropriation for criminal charges, upon approval
326 of the trial judge. However, *if the defendant is convicted*, the Commonwealth shall be entitled to receive
327 *from the defendant, if convicted, the per diem charges of the reporter or reasonable charge attributable*
328 *to the cost of operating such mechanical or electronic devices, which charges shall be taxed as a part of*
329 *the costs of the case the amount allocated to the court reporter fund under the fixed felony fee.*
330 *Localities that maintain mechanical or electronic devices for this purpose shall be entitled to retain their*
331 *reasonable expenses attributable to the cost of operating and maintaining such equipment.*

332 In all felony cases where it appears to the court from the affidavit of the defendant and other
333 evidence that the defendant intends to seek an appeal and is financially unable to pay such costs or to
334 bear the expense of a copy of the transcript of the evidence for an appeal, the trial court shall, upon the
335 motion of counsel for the defendant, order the evidence transcribed for such appeal and all costs therefor
336 paid by the Commonwealth out of the appropriation for criminal charges. If the conviction is not
337 reversed, all costs paid by the Commonwealth, under the provisions hereof, shall be assessed against the
338 defendant.

339 The reporter or other individual designated to report and record the trial shall file the original
340 shorthand notes or other original records with the clerk of the circuit court who shall preserve them in
341 the public records of the court for not less than five years if an appeal was taken and a transcript was
342 prepared, or ten years if no appeal was taken. The transcript in any case certified by the reporter or
343 other individual designated to report and record the trial shall be deemed prima facie a correct statement
344 of the evidence and incidents of trial.

345 Upon the request of any counsel of record, or of any party not represented by counsel, and upon
346 payment of the reasonable cost thereof, the court reporter covering any proceeding shall provide the
347 requesting party with a copy of the transcript of such proceeding or any requested portion thereof.

348 The court shall not direct the court reporter to cease recording any portion of the proceeding without
349 the consent of all parties or of their counsel of record.

350 The administration of this section shall be under the direction of the Supreme Court of Virginia.

351 § 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in
352 installments or upon other terms and conditions; community work in lieu of payment.

353 A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of
354 the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a
355 juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty, and (ii) the defendant is unable to
356 make payment of the fine, restitution, forfeiture, or penalty and costs within ten days of sentencing, the
357 court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the
358 defendant may be required to pay in deferred payments or installments. The court may authorize the
359 clerk to establish and approve the conditions of all deferred or installment payment agreements, pursuant
360 to guidelines established by the court. As a condition of every such agreement, a defendant who enters
361 into an installment or deferred payment agreement shall promptly inform the court of any change of
362 mailing address during the term of the agreement. If the defendant is unable to make payment within ten
363 days of sentencing, the court may assess a one-time fee not to exceed ten dollars to cover the costs of
364 management of the defendant's account until such account is paid in full. *This one-time fee shall not*
365 *apply to cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3 or*
366 *17.1-275.4.* Installment or deferred payment agreements shall include terms for payment if the defendant
367 participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid

in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in §§ 53.1-60, 53.1-131, 53.1-131.1 or § 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution or costs as ordered by the court;

3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

4. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The Board of Corrections shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, the withholding of payments and the disbursement of appropriate funds.

C. The court shall establish a program to provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and penalties.

§ 53.1-131.1. Provision for sentencing of person to nonconsecutive days in jail; payment to defray costs; penalty.

Any court having jurisdiction for the trial of a person charged with a ~~criminal misdemeanor~~ or traffic offense or charged with any offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and sentenced to confinement in jail, impose the time to be served on weekends or nonconsecutive days to permit the convicted defendant to retain gainful employment. A person sentenced pursuant to this section shall be ordered to pay an amount ordered by the court to defray the cost of his keep, which amount shall be the actual cost of incarceration but shall not exceed that amount charged to the Compensation Board for purposes of reimbursement as provided in the general appropriation act. Such amount shall be collected by the clerk of the court. If the defendant willfully fails to report at times specified by the court, the sentence imposed pursuant to this section shall be revoked and a straight jail sentence imposed.

The time served by a person sentenced for violation of state law in a local jail, regional jail, or local jail farm pursuant to this section shall be included in the count of prisoner days reported by the Department for the purpose of apportioning state funds to local correctional facilities for operating costs in accordance with § 53.1-84.

§ 53.1-150. Contributions by persons on parole, probation, and work release.

A. Any person convicted of a felony, multiple felonies or a combination of felonies and misdemeanors and who is sentenced to incarceration in a local or state correctional facility, or who is granted suspension of sentence and probation by a court of competent jurisdiction, or who is participating in a community corrections program as provided in § 53.1-181, or who is participating in a home/electronic incarceration program as provided in § 53.1-131.2, shall be required to pay a fee of \$200 towards the cost of his confinement, supervision or participation in a community corrections or home/electronic incarceration program as a condition of his sentence.

Any person convicted of a misdemeanor or multiple misdemeanors and who is sentenced to

429 incarceration in a local correctional facility, or who is granted suspension of sentence and probation by a
430 court of competent jurisdiction, or who is participating in a community corrections program as provided
431 in § 53.1-181, or who is participating in a home/electronic incarceration program as provided in
432 § 53.1-131.2, shall be required to pay a fee of fifty dollars towards the cost of his confinement,
433 supervision or participation as a condition of his sentence.

434 In the event of multiple convictions under any of the above provisions, the fees imposed herein shall
435 be assessed on a pro rata basis. Such fees shall be in addition to any other costs or fees provided by
436 law.

437 All fees assessed pursuant to this section for the cost of confinement, supervision or participation
438 shall be paid to the clerk of the sentencing court. All such funds collected pursuant to this section shall
439 be deposited in the general fund of the state treasury.

440 B. The sentencing court may exempt a defendant from the requirements of subsection A on the
441 grounds of unreasonable hardship.

442 Any defendant who is exempted from the requirements of subsection A shall be required to perform
443 community service as an alternative to the contribution toward the cost of his confinement, supervision
444 or participation.

445 C. Any person (i) who is granted parole or (ii) who participates in a work release program pursuant
446 to the provisions of §§ 53.1-60 and 53.1-131 shall be required to pay the fee required in subsection A as
447 a condition of parole or work release.