

## Department of Planning and Budget

### 2001 Fiscal Impact Statement

**1. Bill Number** HB2683

**House of Origin**    ☐ Introduced    ☐ Substitute    ☒ Engrossed  
**Second House**    ☒ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron**        Barlow

**3. Committee**    S. Courts of Justice

**4. Title**            Compensation of court-appointed counsel.

**5. Summary/Purpose:**

Provides that in a district court, a sum of \$120 may be provided in any case to counsel for the defense of a single charge. The bill also provides that when counsel is appointed to defend an indigent charged with a felony, such counsel shall continue to receive compensation as provided for defending such a felony, regardless of whether the charge is reduced or amended to a misdemeanor or lesser felony prior to final disposition of the case.

**6. Fiscal Impact:** Tentative, see #8 below.

Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|-------------|
| 2000-01            |                |                  |             |
| 2001-02            | \$3,308,900    | 0                | GF          |
| 2002-03            | \$3,308,900    | 0                | GF          |

**7. Budget amendment necessary:** Yes, Item 31.

**8. Fiscal implications:**

The proposed legislation amends section 19.2-163 that currently sets the fee cap for payment of court-appointed counsel in district court *not to exceed* \$120. The new language requires a \$120 fee payment.

During the 2000 Session of the General Assembly, the fee cap for court-appointed counsel for district courts was increased from \$100 to \$120 (as well as the other fee caps). However, the legislation, in a separate enactment clause, noted that the fee structure would be based on a prorated amount of the actual appropriation. Insufficient funding was provided to cover the entire cost of the increase noted in the bill, therefore, the actual fees are not reflected in the Code. The fee for district courts was prorated from \$120 to \$112. Therefore, \$112 is the maximum amount currently paid. No additional funding is recommended, at this time, by the General Assembly to bring the current fee structure up to the noted fee amounts. In addition, court-appointed attorneys are often paid less than the stated amount. Given this, the proposed increase would be well above the average usually paid, and for an amount that has not been fully funded.

According to the Office of the Executive Secretary of the Supreme Court, the estimated fiscal impact of requiring the \$120 fee payment is \$3,308,900 for fiscal year the 2002. The amount is based on the projected number of district court misdemeanor cases (175,074 cases) and the difference in the set fee (\$120) and the projected average fee to be paid (\$101.10) from the Criminal Fund for fiscal year 2002.

In addition, appointed counsel are currently paid based on the nature of the conviction at final disposition. Counsel appointed to defend a felony conviction is paid more than, for example, a misdemeanor. There could also be a fiscal impact resulting. However, there is not enough information available to determine the fiscal impact of this provision.

**9. Specific agency or political subdivisions affected:** The court system.

**10. Technical amendment necessary:** No.

**11. Other comments:** None.

**Date:** 02/06/01 / jlm

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