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## HOUSE BILL NO. 1658

Offered January 9, 2013

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A *BILL to amend and reenact §§ 8.01-389, 8.01-405, 8.01-446, 17.1-275, 17.1-275.5, 17.1-295, 18.2-254.1, 19.2-354, 46.2-383, 55-137.1, and 63.2-1245 of the Code of Virginia and to repeal § 17.1-247 of the Code of Virginia, relating to clerk's fees; electronic records; certification of records; etc.*

Patrons—Gilbert and Iaquinto

Referred to Committee for Courts of Justice

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

1. That §§ 8.01-389, 8.01-405, 8.01-446, 17.1-275, 17.1-275.5, 17.1-295, 18.2-254.1, 19.2-354, 46.2-383, 55-137.1, and 63.2-1245 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-389. **Judicial records as evidence; full faith and credit; recitals in deeds, deeds of trust, and mortgages; "records" defined; certification.**

A. The records of any judicial proceeding and any other official records of any court of this Commonwealth shall be received as prima facie evidence provided that such records are ~~authenticated~~ and certified by the clerk of the court where preserved to be a true record. For the purposes of this section, judicial proceeding shall include the review of a petition and issuance of a temporary detention order under § 16.1-340.1 or 37.2-809.

A1. The records of any judicial proceeding and any other official record of any court of another state or country, or of the United States, shall be received as prima facie evidence provided that such records are ~~authenticated~~ certified by the clerk of the court where preserved to be a true record.

B. Every court of this Commonwealth shall give such records of courts not of this Commonwealth the full faith and credit given to them in the courts of the jurisdiction from whence they come.

B1. In any instance in which a court not of this Commonwealth shall have entered an order of injunction limiting or preventing access by any person to the courts of this Commonwealth without that person having had notice and an opportunity for a hearing prior to the entry of such foreign order, that foreign order is not required to be given full faith and credit in any Virginia court. The Virginia court may, in its discretion, hold a hearing to determine the adequacy of notice and opportunity for hearing in the foreign court.

C. Specifically, recitals of any fact in a deed or deed of trust of record conveying any interest in real property shall be prima facie evidence of that fact.

D. "Records" as used in this article, shall be deemed to include any memorandum, report, paper, data compilation, or other record in any form, or any combination thereof.

E. *The use of the term "copy teste," "true copy," or "certified copy" or a substantially similar term on a certification affixed or annexed to a copy of an official record maintained by a clerk of court that bears the signature of the clerk or any deputy clerk, and that has the name of the court where such record is preserved on the document or on the certification, shall be prima facie proof that such record is certified by such clerk to be a true copy of the official record kept in the office of the clerk. Nothing herein shall be construed to require or prevent a clerk from using an official seal or prevent a clerk from using any other acceptable method of certification for a court record.*

F. *The certification of any record pursuant to this section shall automatically authenticate such record for the purpose of its admission into evidence in any trial, hearing, or proceeding.*

G. *Nothing in this section shall modify or abrogate any requirement for the certification of a court record pursuant to 28 U.S.C. § 1738.*

**§ 8.01-405. Who may administer oath to witness.**

Any person before whom a witness is to be examined may administer an oath to such witness. In addition, a clerk or deputy clerk of any court may administer an oath to a witness in the presence and at the direction of a judge before whom the witness is to be examined or juror.

**§ 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, or by microphotographic or electronic process allowed by § 17.1-240, 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

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59 and also upon the request of any person interested therein, any such judgment rendered by a district  
60 court judge whose book has been filed in his office under the provisions of Title 16.1 or of which a  
61 legible abstract is delivered to him certified by the district court judge who rendered it; provided, that  
62 judgments docketed in the clerk's office of the Circuit Court of the City of Williamsburg and the County  
63 of James City shall be docketed and indexed in one book. A specific judgment for money shall state  
64 that it is a judgment for money in a specific amount in favor of a named party, against a named party,  
65 with that party's address, if known, and it shall further state the time from which the judgment bears  
66 interest. An order of restitution docketed pursuant to § 19.2-305.2 shall have the same force and effect  
67 as a specific judgment for money and shall state that it is an order of restitution in a specific amount in  
68 favor of a named party, against a named party, with that party's address, if known, and it shall further  
69 state the time from which the judgment bears interest. If the clerk determines that an abstract is not  
70 legible, the clerk shall refuse to record it and shall return it to the person who tendered the abstract for  
71 recording. *A judgment for assessments described in subsection A of § 17.1-275.5 or for the fees provided*  
72 *for by § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, 17.1-275.9, 17.1-275.10,*  
73 *17.1-275.11, 17.1-275.11:1, or 17.1-275.12 shall be recorded as a judgment in favor of the*  
74 *Commonwealth if such fees or assessments are not fully paid on the date of sentencing by the court.*

75 **§ 17.1-275. Fees collected by clerks of circuit courts; generally.**

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

78 1. [Repealed.]

79 2. For recording and indexing in the proper book any writing and all matters therewith, or for  
80 recording and indexing anything not otherwise provided for, \$16 for an instrument or document  
81 consisting of 10 or fewer pages or sheets; \$30 for an instrument or document consisting of 11 to 30  
82 pages or sheets; and \$50 for an instrument or document consisting of 31 or more pages or sheets.  
83 Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half  
84 inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of  
85 computing the recording fee due pursuant to this section. A fee of \$15 per page or sheet shall be  
86 charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a  
87 single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction  
88 that releases the original deed of trust and any corrected or revised deeds of trust. One dollar and fifty  
89 cents of the fee collected for recording and indexing shall be designated for use in preserving the  
90 permanent records of the circuit courts. The sum collected for this purpose shall be administered by The  
91 Library of Virginia in cooperation with the circuit court clerks.

92 3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other  
93 fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding  
94 \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall  
95 be charged for estates of \$5,000 or less.

96 4. For entering and granting and for issuing any license, other than a marriage license or a hunting  
97 and fishing license, and administering an oath when necessary, \$10.

98 5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths  
99 or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage  
100 pursuant to § 20-25, \$25 to be paid by the petitioner.

101 6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all  
102 necessary oaths and writing proper affidavits, \$3.

103 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee  
104 shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

105 8. For making out a copy of any paper, record, or electronic record to go out of the office, which is  
106 not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record,  
107 each image. *However, any person who has been found unable to pay fees or costs pursuant to*  
108 *§ 17.1-606 may receive copies without paying such fee. For copies of records provided to court*  
109 *appointed counsel in criminal cases, the clerk will be reimbursed the fees for such copies by the*  
110 *Criminal Fund.* From such fees, the clerk shall reimburse the locality the costs of making out the copies  
111 and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out  
112 the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing  
113 body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this  
114 subdivision. For purposes of this section, the costs of making out the copies shall include *costs included*  
115 *in the lease and maintenance agreements for the equipment and the technology needed to operate*  
116 *electronic systems in the clerk's office* used to make out the copies, but shall not include salaries or  
117 related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3704.  
118 However, there shall be no charge to the recipient of a final order or decree to send an attested copy to  
119 such party.

120 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying

it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$0.50.

10. 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 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

11. 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 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.

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

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, \$10.

16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

17. For docketing and indexing a judgment from any other court of the Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony. *For any service rendered by the clerk that is not part of a court proceeding and for which no specific fee is provided by law, the clerk may charge up to \$10, to be paid by the party requesting such service to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295.*

19, 20. [Repealed.]

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, \$1.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

23. For preparation and issuance of a subpoena duces tecum, \$5.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

182 25. For providing court records or documents on microfilm, per frame, \$0.50.

183 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one  
184 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be  
185 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to  
186 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly  
187 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the  
188 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged  
189 for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any  
190 other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce  
191 cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a  
192 vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such  
193 decrees.

194 27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees,  
195 including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the  
196 person presenting such credit or debit card a reasonable convenience fee for the processing of such  
197 credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the  
198 transaction or a flat fee of \$2 per transaction. Nothing herein shall be construed to prohibit the clerk  
199 from outsourcing the processing of credit and debit card transactions to a third-party private vendor  
200 engaged by the clerk.

201 28. For the return of any check unpaid by the financial institution on which it was drawn or notice is  
202 received from the credit or debit card issuer that payment will not be made for any reason, the clerk  
203 shall collect, if allowed by the court, a fee of \$50 or 10 percent of the amount to be paid, whichever is  
204 greater, in accordance with § 19.2-353.3.

205 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1,  
206 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee  
207 imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption  
208 filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an  
209 additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Putative Father Registry  
210 Fund pursuant to § 63.2-1249.

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

213 31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125, and 33.1-129, a fee of \$5 to  
214 be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in  
215 § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as  
216 for recording a deed as provided for in this section, to be paid by the party upon whose request such  
217 certificate is recorded or order is entered.

218 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme  
219 Court, including all papers necessary to be copied and other services rendered, except in cases in which  
220 costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8,  
221 or 17.1-275.9, a fee of \$20.

222 33. [Repealed.]

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

225 35. For filing the appointment of a resident agent for a nonresident property owner in accordance  
226 with § 55-218.1, a fee of \$10.

227 36. [Repealed.]

228 37. For recordation of certificate and registration of names of nonresident owners in accordance with  
229 § 59.1-74, a fee of \$10.

230 38. For maintaining the information required under the Overhead High Voltage Line Safety Act  
231 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

232 39. (Effective until October 1, 2012) For lodging, indexing and preserving a will in accordance with  
233 § 64.1-56, a fee of \$2.

234 39. (Effective October 1, 2012) For lodging, indexing and preserving a will in accordance with  
235 § 64.2-409, a fee of \$2.

236 40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed  
237 under § 8.9A-525.

238 41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed  
239 under § 8.9A-525.

240 42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as  
241 prescribed under § 8.9A-525.

242 43. (Effective until October 1, 2012) For filing a petition as provided in §§ 37.2-1001 and 37.2-1013,  
243 the fee shall be \$10.

43. (Effective October 1, 2012) For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44.

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

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

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

E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

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

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

A. The clerk shall assess, in addition to the fees provided for by § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, ~~or~~ 17.1-275.9, 17.1-275.10, 17.1-275.11, 17.1-275.11:1, or 17.1-275.12, 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 subdivision A 28 of § 17.1-275;
7. Any jury costs;
8. Any assessment made pursuant to subdivision A 10 of § 17.1-275;
9. Any fees prescribed in §§ 18.2-268.8 and 46.2-341.26:8;
10. Any court costs related to an ignition interlock device;
11. Any fee for testing for HIV;
12. Any fee for processing an individual admitted to jail as prescribed in § 15.2-1613.1;
13. Any fee for courthouse security personnel as prescribed in § 53.1-120;
14. Any fee for a DNA sample as prescribed in § 19.2-310.2;
15. Reimbursement to the Commonwealth of medical fees as prescribed in § 19.2-165.1;
16. Any fee for a local criminal justice training academy as prescribed in § 9.1-106;
17. Any fee prescribed by §§ 16.1-69.48:1.01 and 17.1-275.11; and
18. Any expenses charged pursuant to subsection B or F of § 19.2-187.1.

B. The total amount of assessments described in subsection A, including the fees provided for by § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, ~~or~~ 17.1-275.9, 17.1-275.10, 17.1-275.11, 17.1-275.11:1, or 17.1-275.12, shall be docketed by the clerk as a judgment against the defendant in favor of the Commonwealth in accordance with § 8.01-446.

**§ 17.1-295. Definitions.**

As used in this title:

"Electronic recording of land records" means the networks or systems maintained by a clerk of the circuit court, or the clerk's designated application services providers, for the submittal of instruments for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ 55-142.10 et seq.) and the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages.

"Operational expenses" means expenses of the clerk of court used to maintain the clerk's office and includes (i) computer support, maintenance, enhancements, upgrades, and replacements and office automation and information technology equipment, including software and conversion services; (ii) preserving, maintaining, and enhancing court records, including the costs of repairs, maintenance, consulting services, service contracts, redaction of social security numbers from certain records, and system replacements of upgrades; and (iii) improving public access to records maintained by the clerk, including locating technology in an offsite facility for such purposes or for implementation of a disaster recovery plan.

305 "Public access" means that the clerk of the circuit court has made available to subscribers that are  
306 other than governmental agencies, secure remote access to land records maintained by the clerk in  
307 accordance with § 17.1-294.

308 "Secure remote access" means public access by electronic means on a network or system to land  
309 records maintained by the clerk of the circuit court or the clerk's designated application service  
310 providers, in compliance with the Secure Remote Access Standards developed by the Virginia  
311 Information Technologies Agency.

312 "Subscriber" means any person who has entered into a subscriber agreement with the clerk of the  
313 circuit court authorizing the subscriber to have secure remote access to land records maintained by the  
314 clerk or the clerk's designated application services providers. If the subscriber is an entity with more  
315 than one person who will use the network or system to access land records maintained by the clerk, or  
316 the clerk's designated application services providers, each individual user shall execute a subscriber  
317 agreement and obtain a separate "user id" and "password" from the clerk. The subscriber is responsible  
318 for the fees due under this title and the proper use of the secure remote access system pursuant to the  
319 subscriber agreement, applicable Virginia law, and Secure Remote Access Standards developed by the  
320 Virginia Information Technologies Agency.

321 **§ 18.2-254.1. Drug Treatment Court Act.**

322 A. This section shall be known and may be cited as the "Drug Treatment Court Act."

323 B. The General Assembly recognizes that there is a critical need in the Commonwealth for effective  
324 treatment programs that reduce the incidence of drug use, drug addiction, family separation due to  
325 parental substance abuse, and drug-related crimes. It is the intent of the General Assembly by this  
326 section to enhance public safety by facilitating the creation of drug treatment courts as means by which  
327 to accomplish this purpose.

328 C. The goals of drug treatment courts include: (i) reducing drug addiction and drug dependency  
329 among offenders; (ii) reducing recidivism; (iii) reducing drug-related court workloads; (iv) increasing  
330 personal, familial and societal accountability among offenders; and, (v) promoting effective planning and  
331 use of resources among the criminal justice system and community agencies.

332 D. Drug treatment courts are specialized court dockets within the existing structure of Virginia's court  
333 system offering judicial monitoring of intensive treatment and strict supervision of addicts in drug and  
334 drug-related cases. Local officials must complete a recognized planning process before establishing a  
335 drug treatment court program.

336 E. Administrative oversight for implementation of the Drug Treatment Court Act shall be conducted  
337 by the Supreme Court of Virginia. The Supreme Court of Virginia shall be responsible for (i) providing  
338 oversight for the distribution of funds for drug treatment courts; (ii) providing technical assistance to  
339 drug treatment courts; (iii) providing training for judges who preside over drug treatment courts; (iv)  
340 providing training to the providers of administrative, case management, and treatment services to drug  
341 treatment courts; and (v) monitoring the completion of evaluations of the effectiveness and efficiency of  
342 drug treatment courts in the Commonwealth.

343 F. A state drug treatment court advisory committee shall be established to (i) evaluate and  
344 recommend standards for the planning and implementation of drug treatment courts; (ii) assist in the  
345 evaluation of their effectiveness and efficiency; and (iii) encourage and enhance cooperation among  
346 agencies that participate in their planning and implementation. The committee shall be chaired by the  
347 Chief Justice of the Supreme Court of Virginia or his designee and shall include a member of the  
348 Judicial Conference of Virginia who presides over a drug treatment court; a district court judge; the  
349 Executive Secretary or his designee; the directors of the following executive branch agencies:  
350 Department of Corrections, Department of Criminal Justice Services, Department of Juvenile Justice,  
351 Department of Behavioral Health and Developmental Services, Department of Social Services; a  
352 representative of the following entities: a local community-based probation and pretrial services agency,  
353 the Commonwealth's Attorney's Association, the Virginia Indigent Defense Commission, the Circuit  
354 Court Clerk's Association, the Virginia Sheriff's Association, the Virginia Association of Chiefs of  
355 Police, the Commission on VASAP, and two representatives designated by the Virginia Drug Court  
356 Association.

357 G. Each jurisdiction or combination of jurisdictions that intend to establish a drug treatment court or  
358 continue the operation of an existing one shall establish a local drug treatment court advisory committee.  
359 Jurisdictions that establish separate adult and juvenile drug treatment courts may establish an advisory  
360 committee for each such court. Each advisory committee shall ensure quality, efficiency, and fairness in  
361 the planning, implementation, and operation of the drug treatment court or courts that serve the  
362 jurisdiction or combination of jurisdictions. Advisory committee membership shall include, but shall not  
363 be limited to the following people or their designees: (i) the drug treatment court judge; (ii) the attorney  
364 for the Commonwealth, or, where applicable, the city or county attorney who has responsibility for the  
365 prosecution of misdemeanor offenses; (iii) the public defender or a member of the local criminal defense  
366 bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the drug

treatment court is located; (v) a representative of the Virginia Department of Corrections, or the Department of Juvenile Justice, or both, from the local office which serves the jurisdiction or combination of jurisdictions; (vi) a representative of a local community-based probation and pretrial services agency; (vii) a local law-enforcement officer; (viii) a representative of the Department of Behavioral Health and Developmental Services or a representative of local drug treatment providers; (ix) the drug court administrator; (x) a representative of the Department of Social Services; (xi) county administrator or city manager; and (xii) any other people selected by the drug treatment court advisory committee.

H. Each local drug treatment court advisory committee shall establish criteria for the eligibility and participation of offenders who have been determined to be addicted to or dependent upon drugs. Subject to the provisions of this section, neither the establishment of a drug treatment court nor anything herein shall be construed as limiting the discretion of the attorney for the Commonwealth to prosecute any criminal case arising therein which he deems advisable to prosecute, except to the extent the participating attorney for the Commonwealth agrees to do so. As defined in § 17.1-805 or 19.2-297.1, adult offenders who have been convicted of a violent criminal offense within the preceding 10 years, or juvenile offenders who previously have been adjudicated not innocent of any such offense within the preceding 10 years, shall not be eligible for participation in any drug treatment court established or continued in operation pursuant to this section.

I. Each drug treatment court advisory committee shall establish policies and procedures for the operation of the court to attain the following goals: (i) effective integration of drug and alcohol treatment services with criminal justice system case processing; (ii) enhanced public safety through intensive offender supervision and drug treatment; (iii) prompt identification and placement of eligible participants; (iv) efficient access to a continuum of alcohol, drug, and related treatment and rehabilitation services; (v) verified participant abstinence through frequent alcohol and other drug testing; (vi) prompt response to participants' noncompliance with program requirements through a coordinated strategy; (vii) ongoing judicial interaction with each drug court participant; (viii) ongoing monitoring and evaluation of program effectiveness and efficiency; (ix) ongoing interdisciplinary education and training in support of program effectiveness and efficiency; and (x) ongoing collaboration among drug treatment courts, public agencies, and community-based organizations to enhance program effectiveness and efficiency.

J. Participation by an offender in a drug treatment court shall be voluntary and made pursuant only to a written agreement entered into by and between the offender and the Commonwealth with the concurrence of the court. *The participating offender shall pay court costs as otherwise provided by law.*

K. Nothing in this section shall preclude the establishment of substance abuse treatment programs and services pursuant to the deferred judgment provisions of § 18.2-251.

L. Each offender shall contribute to the cost of the substance abuse treatment he receives while participating in a drug treatment court pursuant to guidelines developed by the drug treatment court advisory committee.

M. Nothing contained in this section shall confer a right or an expectation of a right to treatment for an offender or be construed as requiring a local drug treatment court advisory committee to accept for participation every offender.

N. The Office of the Executive Secretary shall, with the assistance of the state drug treatment court advisory committee, develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local drug treatment courts. A report of these evaluations shall be submitted to the General Assembly by December 1 of each year. Each local drug treatment court advisory committee shall submit evaluative reports to the Office of the Executive Secretary as requested.

O. Notwithstanding any other provision of this section, no drug treatment court shall be established subsequent to March 1, 2004, unless the jurisdiction or jurisdictions intending or proposing to establish such court have been specifically granted permission under the Code of Virginia to establish such court. The provisions of this subsection shall not apply to any drug treatment court established on or before March 1, 2004, and operational as of July 1, 2004.

P. Subject to the requirements and conditions established by the state Drug Treatment Court Advisory Committee, there shall be established a drug treatment court in the following jurisdictions: the City of Chesapeake and the City of Newport News.

Q. Subject to the requirements and conditions established by the state Drug Treatment Court Advisory Committee, there shall be established a drug treatment court in the Juvenile and Domestic Relations District Court for the County of Franklin, provided that such court is funded solely through local sources.

R. Subject to the requirements and conditions established by the state Drug Treatment Court Advisory Committee, there shall be established a drug treatment court in the City of Bristol and the County of Tazewell, provided that the court is funded within existing state and local appropriations.

**§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or**

428 restitution in installments or upon other terms and conditions; community work in lieu of  
429 payment.

430 A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of  
431 the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a  
432 juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to  
433 make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the  
434 court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the  
435 defendant may be required to pay in deferred payments or installments. The court may authorize the  
436 clerk to establish and approve the conditions of all deferred or installment payment agreements, pursuant  
437 to guidelines established by the court. As a condition of every such agreement, a defendant who enters  
438 into an installment or deferred payment agreement shall promptly inform the court of any change of  
439 mailing address during the term of the agreement. If the defendant is unable to make payment within 30  
440 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of  
441 management of the defendant's account until such account is paid in full. This one-time fee shall not  
442 apply to cases in which costs are assessed pursuant to § 17.1-275, 17.1-275.1, 17.1-275.2, 17.1-275.3,  
443 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall  
444 include terms for payment if the defendant participates in a program as provided in subsection B or C.  
445 The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance  
446 with § 19.2-358.

447 B. When a person sentenced to the Department of Corrections or a local correctional facility owes  
448 any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in  
449 any work release, home/electronic incarceration or nonconsecutive days program as set forth in  
450 § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in  
451 accordance with his installment or deferred payment agreement while participating in such program. If,  
452 after the person has an installment or deferred payment agreement, the person fails to pay as ordered,  
453 his participation in the program may be terminated until all fines, costs, forfeitures, restitution and  
454 penalties are satisfied. The Director of the Department of Corrections and any sheriff or other  
455 administrative head of any local correctional facility shall withhold such ordered payments from any  
456 amounts due to such person. Distribution of the money collected shall be made in the following order of  
457 priority to:

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

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

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

463 4. Defray the offender's keep.

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

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

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

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

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

482 **§ 46.2-383. Courts to forward abstracts of records or furnish abstract data of conviction by**  
483 **electronic means in certain cases; records in office of Department; inspection; clerk's fee for**  
484 **reports.**

485 A. In the event (i) a person is convicted of a charge described in subdivision 1 or 2 of § 46.2-382 or  
486 § 46.2-382.1 or (ii) a person fails or refuses to pay any fine, costs, forfeiture, restitution or penalty, or  
487 any installment thereof, imposed in any traffic case, or (iii) a person forfeits bail or collateral or other  
488 deposit to secure the defendant's appearance on the charges, unless the conviction has been set aside or  
489 the forfeiture vacated, or (iv) a court assigns a defendant to a driver education program or alcohol

treatment or rehabilitation program, or both such programs, as authorized by § 18.2-271.1, or (v) compliance with the court's probation order is accepted by the court in lieu of a conviction under § 18.2-266 or the requirements specified in § 18.2-271 as provided in § 18.2-271.1, or (vi) there is rendered a judgment for damages against a person as described in § 46.2-382, every district court or clerk of a circuit court shall forward an abstract of the record to the Commissioner within ~~eighteen~~ 18 days; ~~or in the case of civil judgments, on the request of the judgment creditor or his attorney, thirty days after the such conviction, failure or refusal to pay, forfeiture, assignment, or acceptance, or and in the case of civil judgments, on the request of the judgment creditor or his attorney, within 30 days after~~ judgment has become final ~~without appeal or has become final by affirmance on appeal~~. No record in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Commissioner.

B. Abstract data of conviction may be furnished to the Commissioner by electronic means provided that the content of the abstract and the certification complies with the requirements of § 46.2-386. In cases where the abstract data is furnished by electronic means, the paper abstract shall not be required to be forwarded to the Commissioner. The Commissioner shall develop a method to ensure that all data is received accurately. The Commissioner, with the approval of the Governor, may destroy the record of any conviction, forfeiture, assignment, acceptance, or judgment, when three years has elapsed from the date thereof, except records of conviction or forfeiture on charges of reckless driving and speeding, which records may be destroyed when five years has elapsed from the date thereof, and further excepting those records that alone, or in connection with other records, will require suspension or revocation or disqualification of a license or registration under any applicable provisions of this title.

C. The records required to be kept may, in the discretion of the Commissioner, be kept by electronic media or by photographic processes and when so done the abstract of the record may be destroyed.

**§ 55-137.1. Recordation certificate not signed by clerk.**

All deeds, orders of probate, fiduciary accounts and all other papers and writings received prior to July 1, 1995, by any clerk of any court of this Commonwealth and transcribed, or purported to be transcribed, in the proper book or books in such clerk's office provided by law for the transcribing and recordation of such deeds, orders of probate, fiduciary accounts or other papers and writings, the certificate of receipt and of recordation of which had not received the attesting signature of such clerk on the date aforesaid, and which had not on such date been verified as required by ~~§ 17.1-247~~ law, shall prima facie be, and deemed to be, as truly received, recorded and verified as if the same had been so attested by the signature of such clerk.

Every clerk of any court of this Commonwealth, in whose office any such deed, order of probate, fiduciary account or other paper or writing as is mentioned in the preceding paragraph has been transcribed upon the proper book or books in such office, provided by law therefor, and which transcription has not received the attesting signature of the clerk who recorded the same, upon production before such clerk of the original of such deed, order of probate, fiduciary account or paper or writing shall verify the accuracy of such transcription by a careful examination and comparison of such transcription with the original paper so recorded and thereupon the clerk shall attest such transcription by signing thereto the name of the clerk who received the original paper for record and his own name as follows:

"Teste . . . . ., former clerk per  
. . . . ., his successor."

And the clerk shall likewise note such verification and the date thereof upon the margin of the record. For such service the clerk shall receive a fee of twenty-five cents, to be paid by the person for whose benefit the service was performed, and the record, so certified and verified, shall have the same effect as if it had been properly certified and verified by the clerk who received the same and who should have so certified and verified the same.

This section shall have a retroactive effect.

**§ 63.2-1245. Separate order book, file and index of adoption cases; to whom available; permanent retention.**

Each circuit court clerk shall establish and maintain a separate and exclusive order book, file and index of adoption cases, none of which shall be exposed to public view but which shall be made available by such clerk to attorneys of record, social service officials, court officials, and to such other persons as the circuit court shall direct in specific cases by order of the circuit court entered in accordance with § 63.2-1246.

Such records shall be retained permanently in original form or on microfilm *or converted to an electronic format in accordance with § 17.1-213*. Such microfilm and microphotographic process and equipment shall meet state archival standards ~~and such microfilm pursuant to § 42.1-82; such electronic~~

551 *format shall follow state electronic records guidelines; and such records* shall be available for  
552 examination to those persons listed ~~above~~ *in this section*. The clerk shall further provide security  
553 negative microfilm copies of such records for storage in the Archives and Records Division of The  
554 Library of Virginia.  
555 **2. That § 17.1-247 of the Code of Virginia is repealed.**