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HOUSE BILL NO. 1658

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 23, 2013)

(Patron Prior to Substitute—Delegate Gilbert)

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, 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.*

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, 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 and also upon the request of any person interested therein, any such judgment rendered by a district court judge whose book has been filed in his office under the provisions of Title 16.1 or of which a legible abstract is delivered to him certified by the district court judge who rendered it; provided, that judgments docketed in the clerk's office of the Circuit Court of the City of Williamsburg and the County

60 of James City shall be docketed and indexed in one book. A specific judgment for money shall state
61 that it is a judgment for money in a specific amount in favor of a named party, against a named party,
62 with that party's address, if known, and it shall further state the time from which the judgment bears
63 interest. An order of restitution docketed pursuant to § 19.2-305.2 shall have the same force and effect
64 as a specific judgment for money and shall state that it is an order of restitution in a specific amount in
65 favor of a named party, against a named party, with that party's address, if known, and it shall further
66 state the time from which the judgment bears interest. If the clerk determines that an abstract is not
67 legible, the clerk shall refuse to record it and shall return it to the person who tendered the abstract for
68 recording. *A judgment for assessments described in subsection A of § 17.1-275.5 or for the fees provided*
69 *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,*
70 *17.1-275.11, 17.1-275.11:1, or 17.1-275.12 shall be recorded as a judgment in favor of the*
71 *Commonwealth if such fees or assessments are not fully paid on the date of sentencing by the court.*

72 **§ 17.1-275. Fees collected by clerks of circuit courts; generally.**

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

75 1. [Repealed.]

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

89 3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other
90 fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding
91 \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall
92 be charged for estates of \$5,000 or less.

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

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

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

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

102 8. For making out a copy of any paper, record, or electronic record to go out of the office, which is
103 not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record,
104 each image. *The clerk may charge for copies of records provided to court-appointed counsel in criminal*
105 *cases, and counsel shall be reimbursed the fees for such copies by the Criminal Fund.* From such fees,
106 the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees
107 directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited
108 with the county or city treasurer or Director of Finance, and the governing body shall budget and
109 appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For
110 purposes of this section, the costs of making out the copies *authorized under this section* shall include
111 *costs included in the lease and maintenance agreements for the equipment and the technology needed to*
112 *operate electronic systems in the clerk's office* used to make out the copies, but shall not include salaries
113 or related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3704.
114 However, there shall be no charge to the recipient of a final order or decree to send an attested copy to
115 such party.

116 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying
117 it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do
118 so, the clerk shall charge an additional \$0.50.

119 10. In any case in which a person is convicted of a violation of any provision of Article 1
120 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk
121 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.

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

26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly

183 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the
184 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged
185 for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any
186 other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce
187 cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a
188 vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such
189 decrees.

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

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

201 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1,
202 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
203 imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption
204 filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an
205 additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Putative Father Registry
206 Fund pursuant to § 63.2-1249.

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

209 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
210 be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in
211 § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as
212 for recording a deed as provided for in this section, to be paid by the party upon whose request such
213 certificate is recorded or order is entered.

214 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme
215 Court, including all papers necessary to be copied and other services rendered, except in cases in which
216 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,
217 or 17.1-275.9, a fee of \$20.

218 33. [Repealed.]

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

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

223 36. [Repealed.]

224 37. For recordation of certificate and registration of names of nonresident owners in accordance with
225 § 59.1-74, a fee of \$10.

226 38. For maintaining the information required under the Overhead High Voltage Line Safety Act
227 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

228 39. (Effective until October 1, 2012) For lodging, indexing and preserving a will in accordance with
229 § 64.1-56, a fee of \$2.

230 39. (Effective October 1, 2012) For lodging, indexing and preserving a will in accordance with
231 § 64.2-409, a fee of \$2.

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

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

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

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

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

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

243 45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee
244 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, but is not limited to, (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, but not limited to, the costs of repairs, maintenance, consulting services, service contracts, redaction of social security numbers from certain records, and system replacements or 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.

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

"Secure remote access" means public access by electronic means on a network or system to land records maintained by the clerk of the circuit court or the clerk's designated application service

306 providers, in compliance with the Secure Remote Access Standards developed by the Virginia
307 Information Technologies Agency.

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

317 **§ 18.2-254.1. Drug Treatment Court Act.**

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

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

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

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

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

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

353 G. Each jurisdiction or combination of jurisdictions that intend to establish a drug treatment court or
354 continue the operation of an existing one shall establish a local drug treatment court advisory committee.
355 Jurisdictions that establish separate adult and juvenile drug treatment courts may establish an advisory
356 committee for each such court. Each advisory committee shall ensure quality, efficiency, and fairness in
357 the planning, implementation, and operation of the drug treatment court or courts that serve the
358 jurisdiction or combination of jurisdictions. Advisory committee membership shall include, but shall not
359 be limited to the following people or their designees: (i) the drug treatment court judge; (ii) the attorney
360 for the Commonwealth, or, where applicable, the city or county attorney who has responsibility for the
361 prosecution of misdemeanor offenses; (iii) the public defender or a member of the local criminal defense
362 bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the drug
363 treatment court is located; (v) a representative of the Virginia Department of Corrections, or the
364 Department of Juvenile Justice, or both, from the local office which serves the jurisdiction or
365 combination of jurisdictions; (vi) a representative of a local community-based probation and pretrial
366 services agency; (vii) a local law-enforcement officer; (viii) a representative of the Department of
367 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.

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

A. In the event (i) a person is convicted of a charge described in subdivision 1 or 2 of § 46.2-382 or § 46.2-382.1 or (ii) a person fails or refuses to pay any fine, costs, forfeiture, restitution or penalty, or any installment thereof, imposed in any traffic case, or (iii) a person forfeits bail or collateral or other

429 deposit to secure the defendant's appearance on the charges, unless the conviction has been set aside or
430 the forfeiture vacated, or (iv) a court assigns a defendant to a driver education program or alcohol
431 treatment or rehabilitation program, or both such programs, as authorized by § 18.2-271.1, or (v)
432 compliance with the court's probation order is accepted by the court in lieu of a conviction under
433 § 18.2-266 or the requirements specified in § 18.2-271 as provided in § 18.2-271.1, or (vi) there is
434 rendered a judgment for damages against a person as described in § 46.2-382, every district court or
435 clerk of a circuit court shall forward an abstract of the record to the Commissioner within ~~eighteen~~ 18
436 days; ~~or in the case of civil judgments, on the request of the judgment creditor or his attorney, thirty~~
437 ~~days after the such conviction, failure or refusal to pay, forfeiture, assignment, or acceptance, or and in~~
438 ~~the case of civil judgments, on the request of the judgment creditor or his attorney, within 30 days after~~
439 ~~judgment has become final without appeal or has become final by affirmance on appeal. No abstract of~~
440 ~~the record in a district court shall be forwarded to the Commissioner unless the period allowed for an~~
441 ~~appeal has elapsed and no appeal has been perfected. After July 1, 2013, in the event that a conviction~~
442 ~~or adjudication has been nullified by separate order of the court, the clerk shall forward to the~~
443 ~~Commissioner an abstract of that record.~~

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

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

456 **§ 55-137.1. Recordation certificate not signed by clerk.**

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

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

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

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

481 This section shall have a retroactive effect.

482 **§ 63.2-1245. Separate order book, file and index of adoption cases; to whom available;**
483 **permanent retention.**

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

489 Such records shall be retained permanently in original form or on microfilm *or converted to an*
490 *electronic format in accordance with § 17.1-213.* Such microfilm and microphotographic process and

491 equipment shall meet state archival standards ~~and such microfilm~~ pursuant to § 42.1-82; *such electronic*
 492 *format shall follow state electronic records guidelines; and such records* shall be available for
 493 examination to those persons listed ~~above~~ *in this section*. The clerk shall further provide ~~security~~
 494 ~~negative microfilm~~ copies of such records for storage in the Archives and Records Division of The
 495 Library of Virginia.
 496 **2. That § 17.1-247 of the Code of Virginia is repealed.**