

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Nick Rush

2. **Bill Number** HB 2715

3. **Committee** House Courts of Justice

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Department of Taxation; Collection of Court  
Fines, Costs, and Restitution

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would transfer from local Commonwealth's Attorneys to the Department of Taxation ("the Department") the responsibility for collection of all delinquent court fines, costs, forfeitures, penalties, and restitution.

Under current law, delinquent court debt collection is the responsibility of the local Commonwealth's Attorney. If he does not undertake collections actions, he is authorized to contract with private attorneys or private collection agencies; enter into an agreement with a local governing body; enter into an agreement with the county or city treasurer; or use the services of the Department of Taxation.

If enacted during the 2019 regular session of the General Assembly, this bill would be effective July 1, 2019.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary (See Line 8.)

### 8. **Fiscal implications:**

Collection agents are entitled to deduct a fee for services from the amounts collected, with the maximum fee set at 35 percent. The Department's collection fee is 17 percent. The fee is used to cover the Department's costs, with excess fees returned to the General Fund. As the Department covers its costs and returns the excess to the General Fund, this bill's impact should not require additional funding for the Department.

### 9. **Specific agency or political subdivisions affected:**

Department of Taxation  
All localities

10. **Technical amendment necessary:** No

## 11. Other comments:

### Current Law

Circuit and General District Court Clerks are responsible for the collection of fines, costs, forfeitures, and penalties, including court-ordered restitution, assessed by the court.

If payment or a payment arrangement is not been made by the debtor within 90 days, court debt becomes delinquent. Delinquent collection is the responsibility of the local Commonwealth's Attorney. If the attorney for the Commonwealth does not undertake collections actions, he is authorized to contract with private attorneys or private collection agencies; enter into an agreement with a local governing body; enter into an agreement with the county or city treasurer; or use the services of the Department of Taxation.

The terms and conditions for delinquent collections are established by guidelines promulgated by the Office of the Attorney General and the Executive Secretary of the clerk of the Supreme Court, working with the Virginia Department of Taxation and the Compensation Board.

Collection agents are entitled to deduct a fee for services from the amounts collected, with the maximum fee set at 35 percent. Court debt includes an "increase rate," which is a percentage increase applied to the delinquent amount when sent for collections, as a means to offset a portion of the collection agent's fee for collections. Since Fiscal Year 2015, the increase rate has been fixed at 17 percent, unless the collection agent fee is less than 17%, then the increase rate matches the collection agent fee percentage. Collection fees that exceed 17 percent reduce gross collections for the court.

The Department's collection fee is 17 percent. The fee is used to cover the Department's costs, with excess fees returned to the General Fund.

At present, there are 329 Virginia courts. The Department provides delinquent account collection services to 232 courts, or 70.5 percent of them. However, according to the Compensation Board's Fiscal Year 2018 Fines and Fees Report, of \$186,571,573 in net new delinquent assessments, the Department received \$97,010,970 or 52 percent. This is because the Department provides collection services to a disproportionate number of courts in smaller localities.

### Proposal

This bill would transfer from local Commonwealth's Attorneys to the Department of Taxation the responsibility for collection of all delinquent court fines, costs, forfeitures, penalties, and restitution.

If enacted during the 2019 regular session of the General Assembly, this bill would be effective July 1, 2019.

### Similar Legislation

**Senate Bill 1514** is identical to this bill.

cc : Secretary of Finance

Date: 1/22/2019 SK  
HB2715F161