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HOUSE BILL NO. 1327

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 7, 2022)

(Patron Prior to Substitute—Delegate Krizek)

A BILL to amend and reenact § 17.1-128 of the Code of Virginia, relating to civil cases; recovery of certain costs.

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-128 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-128. Recording evidence and incidents of trial in certain civil cases and cost thereof; cost of transcripts; preservation of original notes or records; certified transcript prima facie correct.

In all civil cases, the court or judge trying the case may by order entered of record provide for the recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or electronic devices approved by the court. The expense of reporting and recording the trial of a civil case shall be paid by the litigants in the manner and in the proportion as the court may in its discretion direct. A transcript of the record, when required by any party, shall be paid for by such party. The court on appeal may provide that such cost may, in civil cases, be reimbursed to the party prevailing. *The court shall not allow a defendant convicted of a crime from which the civil matter arose to recover such cost from the victim of such crime.* The failure to secure the services of a reporter, or the failure to have the case reported or recorded for any other reason, shall not affect the proceeding or trial. The reporter or other individual designated to report and record the trial shall preserve the original shorthand notes or other original records for not less than five years. The transcript in any case certified by the reporter or other individual designated to report and record the trial shall be deemed prima facie a correct statement of the evidence and incidents of trial.

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