

LD0765260

HOUSE BILL NO. 1208

Offered January 25, 1994

A BILL to amend and reenact §§ 19.2-349 and 19.2-353.3 as it is currently effective and as it may become effective, and §§ 19.2-354, 46.2-391.1 and 53.1-131.2 of the Code of Virginia, relating to payment of fines, costs, etc.

Patrons—Clement, Callahan, Christian, Croshaw, Hall, Miller and Robinson

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-349, § 19.2-353.3 as it is currently effective and as it may become effective, and § 19.2-354 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-349. Clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; assistance by the office of the Attorney General.

The clerk of the circuit court and district court of every county and city shall submit to the judge of his court and to the attorney for the Commonwealth of his county or city a report of all fines, costs, forfeitures and penalties, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied as of the last day of the quarter preceding the quarter in which such report is made. The quarterly report shall include the social security number or driver's license number of the defendant, if known. It shall be the duty of the attorney for the Commonwealth to make inquiries into the reasons why such fines, costs, forfeitures, penalties and restitution remain unsatisfied. If it appears from such inquiries that any such amounts may be satisfied, the attorney for the Commonwealth forthwith shall cause proper proceedings to be instituted for the collection and satisfaction thereof. If the attorney for the Commonwealth is of the opinion that it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth, he may contract with attorneys or private collection agencies, upon such terms and conditions as may be established by guidelines promulgated by the office of the Attorney General and the Executive Secretary of the Supreme Court, or request the office of the Attorney General or the office of the Executive Secretary to assist in the collection of unpaid fines, costs, forfeitures and penalties. The Attorney General and the Executive Secretary of the Supreme Court shall render such assistance, in the case *superintend the collection* of any judgment which remains unsatisfied for more than three months, and in any other circumstance ~~they may~~ provide such assistance, *upon request*, in any manner ~~they deem~~ appropriate. The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.).

§ 19.2-353.3. (For effective date - See note) Acceptance of checks and credit cards in lieu of money. Notwithstanding the provisions of § 19.2-353, personal checks and credit cards ~~may~~ *shall* be accepted in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs collected for offenses tried in a *circuit or general* district court, including motor vehicle violations, committed against the Commonwealth or against any county, city or town. ~~In addition, the chief judge of the juvenile and domestic relations district court may authorize acceptance of personal checks or credit cards for the same purposes in cases tried in the juvenile court.~~ The Committee on District Courts shall devise a procedure for selecting the credit cards that may be accepted *by the district courts*. Court personnel shall not be held to be guarantors of the payment made in such manner and shall not be personally liable for any sums uncollected provided that they exercised ordinary care in the acceptance of the check or credit card.

If a check is returned unpaid by the financial institution on which it is drawn or notice is received from the credit card issuer that payment will not be made, for any reason, the fine, restitution, forfeiture, penalty or costs shall be treated as unpaid and the court may pursue all available remedies to obtain payment. The court to whom the check or credit card was tendered may impose a fee of ten dollars or ten percent of the value of the payment, whichever is greater, in addition to the fine and costs already imposed. ~~The court, in addition to any fees, fines, restitution, forfeiture, penalties or costs, may add to such payment a sum not to exceed four percent of the amount paid as a service charge for the acceptance of a credit card. No service charge for the acceptance of a credit card shall be charged. Any such charges shall be paid by the state out of the Criminal Fund.~~

The clerk of ~~either~~ court may refuse acceptance of checks or credit cards of individuals (i) convicted of a violation of Chapter 6 (§ 18.2-168 et seq.) of Title 18.2 in which a check, credit card, or credit card

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HB1208

60 information was used to commit the offense, (ii) who previously tendered to the court a check which
61 was not ultimately honored or a credit card or credit card information which did not ultimately result in
62 payment by the credit card issuer, or (iii) if authorization of payment is not given by the bank or credit
63 card issuer.

64 § 19.2-353.3. (Delayed effective date - See notes) Acceptance of checks and credit cards in lieu of
65 money.

66 Notwithstanding the provisions of § 19.2-353, personal checks and credit cards ~~may~~ *shall* be accepted
67 in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs collected
68 for offenses tried in a *circuit or general* district court, including motor vehicle violations, committed
69 against the Commonwealth or against any county, city or town. ~~In addition, the chief judge of the~~
70 ~~family court may authorize acceptance of personal checks or credit cards for the same purposes in cases~~
71 ~~tried in the family court.~~ The Committee on District Courts shall devise a procedure for selecting the
72 credit cards that may be accepted *by the district courts*. Court personnel shall not be held to be
73 guarantors of the payment made in such manner and shall not be personally liable for any sums
74 uncollected provided that they exercised ordinary care in the acceptance of the check or credit card.

75 If a check is returned unpaid by the financial institution on which it is drawn or notice is received
76 from the credit card issuer that payment will not be made, for any reason, the fine, restitution, forfeiture,
77 penalty or costs shall be treated as unpaid and the court may pursue all available remedies to obtain
78 payment. The court to whom the check or credit card was tendered may impose a fee of ten dollars or
79 ten percent of the value of the payment, whichever is greater, in addition to the fine and costs already
80 imposed. ~~The court, in addition to any fees, fines, restitution, forfeiture, penalties or costs, may add to~~
81 ~~such payment a sum not to exceed four percent of the amount paid as a service charge for the~~
82 ~~acceptance of a credit card. No service charge for the acceptance of a credit card shall be charged. Any~~
83 ~~such charges shall be paid by the state out of the Criminal Fund.~~

84 The clerk of ~~either~~ court may refuse acceptance of checks or credit cards of individuals (i) convicted
85 of a violation of Chapter 6 (§ 18.2-168 et seq.) of Title 18.2 in which a check, credit card, or credit card
86 information was used to commit the offense, (ii) who previously tendered to the court a check which
87 was not ultimately honored or a credit card or credit card information which did not ultimately result in
88 payment by the credit card issuer, or (iii) if authorization of payment is not given by the bank or credit
89 card issuer.

90 § 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in
91 installments or upon other terms and conditions; community work in lieu of payment.

92 A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of
93 the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a
94 juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty, and (ii) the defendant is unable to
95 make immediate payment of the fine, restitution, forfeiture, or penalty and costs, the court, on motion of
96 the defendant, may order the defendant to pay such fine, restitution, forfeiture or penalty and any costs
97 which the defendant may be required to pay in installments or upon such other terms and conditions
98 within such period of time as may enable the defendant to pay such amounts due. *The court may order*
99 *the defendant, if such sum or sums are not paid in full by the date ordered, to appear in court on or*
100 *after that date to show cause why he should not be punished in accordance with § 19.2-358.*

101 B. The court may establish a program to ~~provide an option to require that~~ any person upon whom a
102 fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the
103 performance of community service work before or after imprisonment. The program shall specify the
104 rate at which credits are earned and provide for the manner of applying earned credits against the fine
105 or costs. The court shall have such other authority as is reasonably necessary for or incidental to
106 carrying out this program.

107 C. When the court has authorized deferred payment or installment payments, the clerk shall give
108 notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant
109 to § 19.2-358 and if convicted of any violation of the motor vehicle laws of this Commonwealth, or of
110 any county, city or town his license to operate a motor vehicle will be suspended pursuant to
111 § 46.2-395.

112 **2. The Attorney General is requested to provide a report to the 1995 Session of the General**
113 **Assembly detailing that Office's plan for increasing the collection of unpaid fines and costs and for**
114 **the implementation of the amendments contained in this act to § 19.2-349.**

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