

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 19.2-349, 19.2-353.3, as it is currently effective and as it may become
 3 effective, and §§ 19.2-354, 46.2-391.1, 46.2-395 and 53.1-131.2 of the Code of Virginia, relating to
 4 payment of fines, costs.

5 [H 1208]

6 Approved

7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ 19.2-349, 19.2-353.3, as it is currently effective and as it may become effective, and
 9 §§ 19.2-354, 46.2-391.1, 46.2-395 and 53.1-131.2 of the Code of Virginia are amended and
 10 reenacted as follows:

11 § 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for
 12 Commonwealth; assistance by the office of the Attorney General.

13 A. The clerk of the circuit court and district court of every county and city shall submit to the judge
 14 of his court and to , the Department of Taxation, the State Compensation Board and the attorney for the
 15 Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which
 16 are delinquent more than thirty days, including court-ordered restitution of a sum certain, imposed in his
 17 court for a violation of state law or a local ordinance which remain unsatisfied as of the last day of the
 18 quarter preceding the quarter in which such report is made, including those which are delinquent in
 19 installment payments. The quarterly monthly report shall include the social security number or driver's
 20 license number of the defendant, if known, and such other information as the Department of Taxation
 21 and the Compensation Board deem appropriate. The Executive Secretary shall make the report required
 22 by this subsection on behalf of those clerks who participate in the Supreme Court's automated
 23 information system.

24 B. It shall be the duty of the attorney for the Commonwealth to make inquiries into the reasons why
 25 such fines, costs, forfeitures, penalties and restitution remain unsatisfied. If it appears from such
 26 inquiries that any such amounts may be satisfied, the attorney for the Commonwealth forthwith shall
 27 cause proper proceedings to be instituted for the collection and satisfaction thereof. If the of all fines,
 28 costs, forfeitures, penalties and restitution. The attorney for the Commonwealth is of the opinion that
 29 shall determine whether it would be impractical or uneconomical for such service to be rendered by the
 30 office of the attorney for the Commonwealth. If the defendant does not enter into an installment
 31 payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a
 32 process by which collection activity may be commenced ten days after judgment.

33 If the attorney for the Commonwealth does not undertake collection, he may shall contract with (i)
 34 private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body,
 35 or (iii) use the services of the Department of Taxation, upon such terms and conditions as may be
 36 established by guidelines promulgated by the office Office of the Attorney General and, the Executive
 37 Secretary of the Supreme Court; or request the office of the Attorney General or the office of the
 38 Executive Secretary to assist in the collection of unpaid fines, costs, forfeitures and penalties. The
 39 Attorney General and the Executive Secretary of the Supreme Court shall render such assistance, in the
 40 ease of any judgment which remains unsatisfied for more than three months, and in any other
 41 circumstance they may provide such assistance, in any manner they deem appropriate with the
 42 Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes
 43 collection, he shall follow the procedures established by the Department of Taxation and the
 44 Compensation Board. Such guidelines shall not supersede contracts between attorneys for the
 45 Commonwealth and private attorneys and collection agencies when active collection efforts are being
 46 undertaken.

47 The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out
 48 of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency
 49 receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act
 50 (§ 58.1-520 et seq.).

51 C. The Department of Taxation and the State Compensation Board shall be responsible for the
 52 collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354.
 53 Persons owing such unsatisfied judgments or failing to comply with installment payment agreements
 54 under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The
 55 Department of Taxation and the State Compensation Board shall establish procedures to be followed by
 56 clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or
 57 collection agents and may employ private attorneys or collection agencies, or engage other state

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58 agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled
 59 to deduct a fee for services from amounts collected for violations of local ordinances.

60 The Department of Taxation and the State Compensation Board shall annually report to the
 61 Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed,
 62 collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by
 63 each circuit and district court. The report shall include the procedures established by the Department of
 64 Taxation and the State Compensation Board pursuant to this section and a plan for increasing the
 65 collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually
 66 report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to
 67 the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the
 68 procedures established by the Department of Taxation and the State Compensation Board.

69 § 19.2-353.3. Acceptance of checks and credit cards in lieu of money.

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

80 If a check is returned unpaid by the financial institution on which it is drawn or notice is received
 81 from the credit card issuer that payment will not be made, for any reason, the fine, restitution, forfeiture,
 82 penalty or costs shall be treated as unpaid and the court may pursue all available remedies to obtain
 83 payment. The court to whom the *dishonored* check or credit card was tendered may impose a fee of ~~ten~~
 84 twenty dollars or ten percent of the value of the payment, whichever is greater, in addition to the fine
 85 and costs already imposed. The court, in addition to any fees, fines, restitution, forfeiture, penalties or
 86 costs, may add to such payment a sum not to exceed four percent of the amount paid as a service
 87 charge for the acceptance of a credit card.

88 The clerk of either court may refuse acceptance of checks or credit cards of individuals (i) convicted
 89 of a violation of Chapter 6 (§ 18.2-168 et seq.) of Title 18.2 in which a check, credit card, or credit card
 90 information was used to commit the offense, (ii) who previously tendered to the court a check which
 91 was not ultimately honored or a credit card or credit card information which did not ultimately result in
 92 payment by the credit card issuer, or (iii) if authorization of payment is not given by the bank or credit
 93 card issuer, (iv) if the validity of the check or credit card cannot be verified, or (v) if the payee of the
 94 check is other than the court.

95 § 19.2-353.3. (Delayed effective date) Acceptance of checks and credit cards in lieu of money.

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

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 117 was not ultimately honored or a credit card or credit card information which did not ultimately result in
 118 payment by the credit card issuer, or (iii) if authorization of payment is not given by the bank or credit

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119 card issuer , (iv) if the validity of the check or credit card cannot be verified, or (v) if the payee of the
120 check is other than the court.

121 § 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in
122 installments or upon other terms and conditions; community work in lieu of payment.

123 A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of
124 the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a
125 juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty, and (ii) the defendant is unable to
126 make immediate payment of the fine, restitution, forfeiture, or penalty and costs, the court, ~~on motion of~~
127 the defendant, ~~may shall~~ order the defendant to pay such fine, restitution, forfeiture or penalty and any
128 costs which the defendant may be required to pay in installments ~~or upon such other terms and~~
129 conditions within such period of time as ~~may enable the defendant to pay such amounts due. The court~~
130 ~~may assess a one-time fee not to exceed ten dollars to cover the costs of management of the defendant's~~
131 ~~account until such account is paid in full. Installment payment agreements shall include terms for~~
132 ~~payment if the defendant participates in a program as provided in subsection B or C. The court, if such~~
133 ~~sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.~~

134 B. When a person sentenced to the Department of Corrections or a local correctional facility owes
135 any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating
136 in any work release, home/electronic incarceration or nonconsecutive days program as set forth in
137 §§ 53.1-60, 53.1-131, 53.1-131.1 or § 53.1-131.2 to either make full payment or make payments in
138 accordance with his installment payment agreement while participating in such program. If, after the
139 person has an installment payment agreement, the person fails to pay as ordered, his participation in
140 the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied.
141 The Director of the Department of Corrections and any sheriff or other administrative head of any local
142 correctional facility shall withhold such ordered payments from any amounts due to such person.
143 Distribution of the money collected shall be made in the following order of priority to:

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

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

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

149 4. Defray the offender's keep.

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

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

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

161 C. D. When the court has authorized deferred payment or installment payments, the clerk shall give
162 notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant
163 to § 19.2-358 and if convicted of any violation of the motor vehicle laws of this Commonwealth, or of
164 any county, city or town his license to operate a motor vehicle will be suspended pursuant to
165 § 46.2-395.

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

170 § 46.2-391.1. Suspension of registration certificates and plates upon suspension or revocation of
171 driver's license.

172 Whenever the Commissioner, under the authority of law of the Commonwealth, suspends or revokes
173 the driver's license of any person upon receiving record of that person's conviction, ~~or whenever the~~
174 ~~Commissioner is notified that a court has suspended a person's driving privilege pursuant to § 46.2-395,~~
175 the Commissioner shall also suspend all of the registration certificates and license plates issued for any
176 motor vehicles registered ~~solely~~ in the name of the ~~such~~ person ~~so convicted and shall not issue any~~
177 ~~registration certificate or license plate for any other vehicle that such person seeks to register solely in~~
178 ~~his name. Except for persons whose privileges have been suspended by a court pursuant to § 46.2-395,~~
179 the Commissioner, ~~however,~~ shall not suspend such registration certificates or license plates in the event

180 such person has previously given or gives and thereafter maintains proof of his financial responsibility
181 in the future, in the manner specified in this chapter, with respect to each and every motor vehicle
182 owned and registered by such person. In this event it shall be lawful for said vehicle or vehicles to be
183 operated during this period of suspension by any duly licensed driver when so authorized by the owner.
184

185 § 46.2-395. Suspension of license for failure or refusal to pay fines or costs.

186 A. Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in
187 the Commonwealth shall thereby, as a condition of such driving, consent to pay all lawful fines, court
188 costs, forfeitures, restitution, and penalties assessed against him for violations of the ~~motor vehicle~~ laws
189 of the Commonwealth; of any county, city, or town; or of the United States. For the purpose of this
190 section, such fines and costs shall be deemed to include any fee assessed by the court under the
191 provisions of § 18.2-271.1 for entry by a person convicted of a violation of § 18.2-266 into an alcohol
192 safety action program.

193 B. In addition to any penalty provided by law, when any person is convicted of any violation of ~~this~~
194 title, ~~or any other~~ the law of the Commonwealth or of the United States pertaining to the driver or
195 driving of a motor vehicle in the Commonwealth or of any valid local ordinance adopted pursuant to
196 § 46.2-1300, and fails or refuses to provide for immediate payment in full of any fine, costs, forfeitures,
197 restitution, or penalty lawfully assessed against him, or fails to make deferred payments or installment
198 payments as ordered by the court, the court shall forthwith suspend the person's privilege to drive a
199 motor vehicle on the highways in the Commonwealth. The driver's license of the person shall continue
200 suspended until the fine, costs, forfeiture, restitution, or penalty has been paid in full. If the person has
201 not obtained a license as required by this chapter, or is a nonresident, the court may direct in the
202 judgment of conviction that the person shall not drive any motor vehicle in Virginia for a period to
203 coincide with the nonpayment of the amounts due.

204 C. Before transmitting to the Commissioner a record of the person's failure or refusal to pay any
205 fine, costs, forfeiture, restitution, or penalty or a failure to comply with an order issued pursuant to
206 § 19.2-354, the clerk of the court that convicted the person shall send or provide the person written
207 notice of the suspension of his license or privilege to drive a motor vehicle in Virginia, effective ten
208 days from the date of conviction, if the fine and costs are not paid prior to the effective date of the
209 suspension as stated on the notice. Notice shall be provided to the person at the time of trial or shall be
210 mailed by first-class mail to the address certified on the summons or bail recognizance document as the
211 person's current mailing address, or to such mailing address as the person has subsequently provided to
212 the court as a change of address. If so mailed on the date of conviction or within two days thereof, or if
213 delivered to the person at the time of trial, such notice shall be adequate notice of the license suspension
214 and of the person's ability to avoid suspension by paying the fines and costs prior to the effective date.
215 No other notice shall be required to make the suspension effective. A record of the person's failure or
216 refusal and of the license suspension shall be sent to the Commissioner if the fine, costs, forfeiture,
217 restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or
218 on the failure to make a scheduled payment.

219 D. If the person pays the amounts assessed against him subsequent to the time the license has been
220 transmitted to the Department, and his license is not under suspension or revocation for any other lawful
221 reason, except pursuant to this section, then the Commissioner shall return the license to the person on
222 presentation of the official report of the court evidencing the payment of the fine, costs, forfeiture,
223 restitution, or penalty.

224 E. If the court has suspended or revoked the driver's license for any lawful reason other than this
225 section, or the conviction is one for which revocation or suspension is required under any provision of
226 this title, except for this section, then the suspension permitted under this section shall be in addition to,
227 and run consecutively with, the revocation or suspension. The period of suspension shall be calculated
228 from the date of the assessment of the fine, costs, forfeiture, restitution, or penalty until the date it has
229 been paid.

230 § 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs;
231 escape; penalty.

232 A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic
233 offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted
234 and sentenced to confinement in jail, and if it appears to the court that such an offender is a suitable
235 candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration
236 program, if such program exists, under the supervision of the office of the sheriff, the administrator of a
237 local or regional jail, or a Department of Corrections probation and parole district office established
238 pursuant to § 53.1-141. The court may further authorize the offender's participation in work release
239 employment or educational or other rehabilitative programs as defined in § 53.1-131. The court shall be
240 notified in writing by the director or administrator of the program to which the offender is assigned of
241 the offender's place of home/electronic incarceration, place of employment, and the location of any

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241 educational or rehabilitative program in which the offender participates.

242 B. In any city or county in which a home/electronic incarceration program established pursuant to
243 this section is available, the court, subject to approval by the sheriff, may assign the accused to such a
244 program pending trial if it appears to the court that the accused is a suitable candidate for
245 home/electronic incarceration.

246 C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison
247 but is actually serving his sentence in jail and who has less than twelve months to serve in his sentence,
248 after notice to the attorney for the Commonwealth of the convicting jurisdiction, may be assigned by the
249 sheriff or the administrator of a local or regional jail to a home/electronic incarceration program under
250 the supervision of the office of the sheriff, the administrator of a local or regional jail, or a Department
251 of Corrections probation and parole office established pursuant to § 53.1-141. Such person shall be
252 eligible if his term of confinement does not include a sentence for a conviction of a felony violent
253 crime, a felony sexual offense, burglary or manufacturing, selling, giving, distributing or possessing with
254 the intent to manufacture, sell, give or distribute a Schedule I or Schedule II controlled substance. The
255 court shall retain authority to remove the offender from such home/electronic incarceration program. The
256 court which sentenced the offender shall be notified in writing by the sheriff or the administrator of a
257 local or regional jail of the offender's place of home/electronic incarceration and place of employment or
258 other rehabilitative program.

259 D. The Board may prescribe regulations to govern home/electronic incarceration programs.

260 E. Any offender or accused assigned to such a program by the court or sheriff or the administrator of
261 a local or regional jail who, without proper authority or just cause, leaves his place of home/electronic
262 incarceration, the area to which he has been assigned to work or attend educational or other
263 rehabilitative programs, or the vehicle or route of travel involved in his going to or returning from such
264 place, shall be guilty of a Class 2 misdemeanor. An offender or accused who is found guilty of a
265 violation of this section shall be ineligible for further participation in a home/electronic incarceration
266 program during his current term of confinement.

267 F. The director or administrator of a home/electronic incarceration program who also operates a
268 residential program may remove an offender from a home/electronic incarceration program and place
269 him in such residential program if the offender commits a noncriminal program violation. The court
270 shall be notified of the violation and of the placement of the offender in the residential program.

271 G. The director or administrator of a home/electronic incarceration program ~~may~~ shall charge the
272 offender or accused a fee for participating in the program to pay for the cost of home/electronic
273 incarceration equipment. The offender or accused shall be required to pay the program for any damage
274 to the equipment which is in his possession or for failure to return the equipment to the program.

275 H. *Any wages earned by an offender or accused assigned to a home/electronic incarceration
 276 program and participating in work release shall be paid to the director or administrator after standard
 277 payroll deductions required by law. Distribution of the money collected shall be made in the following
 278 order of priority to:*

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

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

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

284 4. *Defray the offender's keep.*

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

287 *The Board of Corrections shall promulgate regulations governing the receipt of wages paid to
 288 persons participating in such programs, the withholding of payments and the disbursement of
 289 appropriate funds.*

290 2. **That the amendments to §§ 46.2-391.1 and 46.2-395 shall be effective January 1, 1995.**