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SENATE BILL NO. 531

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 27, 2010)

(Patron Prior to Substitute—Senator McDougle)

A BILL to amend and reenact §§ 15.2-1627.3, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, and 17.1-275.9 of the Code of Virginia, relating to fees for attorneys for the Commonwealth and city attorneys in criminal cases.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1627.3, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, and 17.1-275.9 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1627.3. Attorneys for the Commonwealth and city attorneys; in criminal cases; when no costs or fees taxed.

The fees of attorneys for the Commonwealth in all felony and misdemeanor cases in which there is a conviction and sentence not set aside on appeal or a judgment for costs against the prosecutor, and for expenditures made in the discharge of his duties shall be as follows:

For each trial of a single count felony indictment, ~~fifteen dollars~~ \$40.

For each trial of a multiple count felony indictment, ~~fifteen dollars~~ \$40 per count.

For each person tried for a misdemeanor in his circuit court, ~~five dollars~~ \$15, and for each person prosecuted by him before such court of his county or city for a misdemeanor, which he is required by law to prosecute, or upon an indictment found by a grand jury, ~~five dollars~~ \$15, and in every misdemeanor case so prosecuted the court or judge shall tax in the costs and enter judgment for such misdemeanor fee.

No attorney for the Commonwealth or city attorney shall receive a fee for appearing in misdemeanor cases before a district court notwithstanding any provision of law to the contrary.

No costs or fees shall be taxed for, or in any way allowed to, an attorney for the Commonwealth of any city or county or a city attorney of any city in any case, unless he in person, or by a duly authorized assistant, actually appears and prosecutes the proceedings before the court.

§ 17.1-275.1. Fixed felony fee.

Upon conviction of any and each felony charge or upon a deferred disposition of proceedings in circuit court in the case of any and each felony disposition deferred pursuant to the terms and conditions of § 16.1-278.8, 16.1-278.9, 18.2-61, 18.2-67.1, or 18.2-251, there shall be assessed as court costs a fee of ~~\$350~~ \$375, to be known as the fixed felony fee.

The amount collected, in whole or in part, for the fixed felony fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Sentencing/supervision fee (General Fund) (~~.50411434705067~~);

2. Forensic science fund (~~.11071431033333~~);

3. Court reporter fund (~~.09505710887200~~);

4. Witness expenses/expert witness fund (~~.00571430053333~~);

5. Virginia Crime Victim-Witness Fund (~~.00857140080000~~);

6. Intensified Drug Enforcement Jurisdiction Fund (~~.01142860106667~~);

7. Criminal Injuries Compensation Fund (~~.08571430800000~~);

8. Commonwealth's attorney fund (state share) (~~.02142860533333~~);

9. Commonwealth's attorney fund (local share) (~~.02142860533333~~);

10. Regional Criminal Justice Academy Training Fund (~~.00285710026667~~);

11. Warrant fee (~~.03428570320000~~);

12. Courthouse construction/maintenance fund (~~.00571430053333~~); and

13. Clerk of the circuit court (~~.09297140867733~~).

§ 17.1-275.2. Fixed fee for felony reduced to misdemeanor.

In circuit court, upon the conviction of a person of any and each misdemeanor reduced from a felony charge, or upon a deferred disposition of proceedings in the case of any and each misdemeanor reduced from a felony charge and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, or 19.2-303.2, there shall be assessed as court costs a fee of ~~\$202~~ \$227, to be known as the fixed fee for felony reduced to misdemeanor. However, this section shall not apply to those proceedings provided for in § 17.1-275.8.

The amount collected, in whole or in part, for the fixed fee for felony reduced to misdemeanor shall be apportioned to the following funds in the fractional amounts designated:

1. Sentencing/supervision fee (General Fund) (~~.19049501695154~~);

2. Forensic science fund (~~.19183171707048~~);

- 60 3. Court reporter fund (.~~16470301465639~~);
 61 4. Witness expenses/expert witness fund (.~~00990100088106~~);
 62 5. Virginia Crime Victim-Witness Fund (.~~01485150132159~~);
 63 6. Intensified Drug Enforcement Jurisdiction Fund (.~~01980200176211~~);
 64 7. Criminal Injuries Compensation Fund (.~~09900990881057~~);
 65 8. Commonwealth's attorney fund (state share) (.~~03712870881057~~);
 66 9. Commonwealth's attorney fund (local share) (.~~03712870881057~~);
 67 10. Regional Criminal Justice Academy Training Fund (.~~00495050044053~~);
 68 11. Warrant fee (.~~05940590528634~~);
 69 12. Courthouse construction/maintenance fund (.~~00990100088106~~); and
 70 13. Clerk of the circuit court (.~~1608911431718~~).

71 § 17.1-275.3. Fixed felony revocation fee.

72 Upon the partial or full revocation of suspension of sentence or probation of a convicted felon
 73 pursuant to § 19.2-306, other than a revocation for failure to pay previously assessed court costs, there
 74 shall be assessed as court costs a fee of ~~\$133~~ \$158 to be known as the fixed felony revocation fee. A
 75 single fixed felony revocation fee shall be assessed per defendant per hearing without regard to the
 76 number of revocations being considered.

77 The amount collected, in whole or in part, for the fixed felony revocation fee shall be apportioned to
 78 the following funds in the fractional amounts designated:

- 79 1. Virginia Crime Victim-Witness Fund (.~~02255640189873~~);
 80 2. Intensified Drug Enforcement Jurisdiction Fund (.~~03007520253165~~);
 81 3. Court reporter fund (.~~25015042105696~~);
 82 4. Witness expenses/expert witness fund (.~~01503760126582~~);
 83 5. Commonwealth's attorney fund (state share) (.~~05639101265823~~);
 84 6. Commonwealth's attorney fund (local share) (.~~05639101265823~~);
 85 7. Criminal Injuries Compensation Fund (.~~22556391898734~~);
 86 8. Regional Criminal Justice Academy Training Fund (.~~00751880063291~~);
 87 9. Warrant fee (.~~09022560759494~~); and
 88 10. Clerk of the circuit court (.~~24609022071519~~).

89 § 17.1-275.4. Fixed misdemeanor reduced from felony revocation fee.

90 In circuit court, when a person whose charge was reduced from a felony charge is convicted of a
 91 misdemeanor and subsequently suffers partial or full revocation of his suspension of sentence or
 92 probation pursuant to § 19.2-306, other than a revocation for failure to pay previously assessed court
 93 costs, he shall be assessed as court costs a fee of ~~\$89.50~~ \$114.50 to be known as the fixed misdemeanor
 94 reduced from felony revocation fee. A single fixed misdemeanor reduced from felony revocation fee
 95 shall be assessed per defendant per hearing without regard to the number of misdemeanor revocations
 96 being considered except that if a revocation of probation or suspended sentence upon a felony
 97 conviction is also being considered at the same revocation proceeding, a single fixed felony revocation
 98 fee shall apply instead. The amount collected, in whole or in part, for the fixed misdemeanor reduced
 99 from felony revocation fee shall be apportioned, as provided by law, to the following funds in the
 100 fractional amounts designated:

- 101 1. Virginia Crime Victim-Witness Fund (.~~03351960262009~~);
 102 2. Intensified Drug Enforcement Jurisdiction Fund (.~~04469270349345~~);
 103 3. Witness expenses/expert witness fund (.~~02234640174672~~);
 104 4. Commonwealth's attorney fund (state share) (.~~08379891746725~~);
 105 5. Commonwealth's attorney fund (local share) (.~~08379891746725~~);
 106 6. Criminal Injuries Compensation Fund (.~~22346371746725~~);
 107 7. Regional Criminal Justice Training Academy Fund (.~~01117320087336~~);
 108 8. Warrant fee, as prescribed by § 17.1-272 (.~~13407821048035~~); and
 109 9. Clerk of the circuit court (.~~36312852838428~~).

110 § 17.1-275.7. Fixed misdemeanor fee.

111 In circuit court, upon (i) conviction of any and each misdemeanor, not originally charged as a felony;
 112 (ii) a deferred disposition of proceedings in the case of any and each misdemeanor not originally
 113 charged as a felony and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8,
 114 16.1-278.9, 18.2-57.3, or 19.2-303.2; (iii) any and each conviction of a traffic infraction or referral to a
 115 driver improvement clinic or traffic school in lieu of a finding of guilt for a traffic infraction; or (iv)
 116 proof of compliance with law under §§ 46.2-104 and 46.2-1157, there shall be assessed as court costs a
 117 fee of ~~\$70~~ \$80, to be known as the fixed misdemeanor fee. However, this section shall not apply to
 118 those proceedings provided for in § 17.1-275.8. This fee shall be in addition to any fee assessed in the
 119 district court.

120 The amount collected, in whole or in part, for the fixed misdemeanor fee shall be apportioned, as
 121 provided by law, to the following funds in the fractional amounts designated:

- 122 1. Sentencing/supervision fee (General Fund) (.01428570125000);
- 123 2. Witness expenses/expert witness fee (General Fund) (.02857140250000);
- 124 3. Virginia Crime Victim-Witness Fund (.04285710375000);
- 125 4. Intensified Drug Enforcement Jurisdiction Fund (.05714290500000);
- 126 5. Criminal Injuries Compensation Fund (.28571432500000);
- 127 6. Commonwealth's Attorney Fund (state share) (.03571430937500);
- 128 7. Commonwealth's Attorney Fund (local share) (.03571430937500);
- 129 8. Regional Criminal Justice Academy Training Fund (.01428570125000);
- 130 9. Warrant fee, as prescribed by § 17.1-272 (.17142861500000);
- 131 10. Courthouse Construction/Maintenance Fund (.02857140250000); and
- 132 11. Clerk of the circuit court (.28571432500000).

133 § 17.1-275.8. Fixed drug misdemeanor fee.

134 In circuit court, upon conviction of any and each misdemeanor charge, whether or not originally
 135 charged as a felony, for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of
 136 Title 18.2, or upon a deferred disposition of proceedings in the case of any and each misdemeanor
 137 charge, whether or not originally charged as a felony, deferred pursuant to the terms and conditions of
 138 § 18.2-251, there shall be assessed as court costs a fee of ~~\$286.50~~ \$296.50, to be known as the fixed
 139 drug misdemeanor fee. This fee shall be in addition to any fee assessed in the district court.

140 The amount collected, in whole or in part, for the fixed drug misdemeanor fee shall be apportioned,
 141 as provided by law, to the following funds in the fractional amounts designated:

- 142 1. Sentencing/supervision fee (General Fund) (.13089011264755);
- 143 2. Court Reporter Fund (.01745200168634);
- 144 3. Witness expenses/expert witness fee (General Fund) (.00698080067454);
- 145 4. Virginia Crime Victim-Witness Fund (.01047120101180);
- 146 5. Intensified Drug Enforcement Jurisdiction Fund (.01396160134907);
- 147 6. Criminal Injuries Compensation Fund (.06980800674536);
- 148 7. Commonwealth's Attorney Fund (state share) (.00872600252951);
- 149 8. Commonwealth's Attorney Fund (local share) (.00872600252951);
- 150 9. Regional Criminal Justice Academy Training Fund (.00349040033727);
- 151 10. Warrant fee, as prescribed by § 17.1-272 (.04188480404722);
- 152 11. Courthouse Construction/Maintenance Fund (.00698080067454);
- 153 12. Clerk of the circuit court (.06980800674536);
- 154 13. Forensic laboratory fee (General Fund) (.34904013372681); and
- 155 14. Drug Offender Assessment and Treatment Fund (.26178012529511).

156 § 17.1-275.9. Fixed misdemeanor revocation fee.

157 In circuit court, when a person is convicted of a misdemeanor not originally charged as a felony and
 158 subsequently suffers partial or full revocation of his suspension of sentence or probation pursuant to
 159 § 19.2-306, he shall be assessed as court costs a fee of ~~\$67~~ \$77 to be known as the fixed misdemeanor
 160 revocation fee. A single fixed misdemeanor revocation fee shall be assessed per defendant per hearing
 161 without regard to the number of misdemeanor revocations being considered, except that if a revocation
 162 of probation or suspended sentence upon a felony conviction is also being considered at the same
 163 revocation proceeding, a single fixed felony revocation fee shall apply instead. The amount collected, in
 164 whole or in part, for the fixed misdemeanor revocation fee shall be apportioned, as provided by law, to
 165 the following funds in the fractional amounts designated:

- 166 1. Virginia Crime Victim-Witness Fund (.04477610348837);
- 167 2. Intensified Drug Enforcement Jurisdiction Fund (.05970150465116);
- 168 3. Witness expenses/expert witness fee (General Fund) (.02985070232558);
- 169 4. Commonwealth's Attorney Fund (state share) (.03731340872093);
- 170 5. Commonwealth's Attorney Fund (local share) (.03731340872093);
- 171 6. Criminal Injuries Compensation Fund (.29850752325581);
- 172 7. Regional Criminal Justice Training Academy Fund (.01492540116279);
- 173 8. Warrant fee, as prescribed by § 17.1-272 (.17910451395349); and
- 174 9. Clerk of the circuit court (.29850752325581).