

**REPORT OF THE
VIRGINIA CODE COMMISSION**

**RECODIFICATION OF
TITLES 14.1 AND 17 OF THE
CODE OF VIRGINIA**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 87

**COMMONWEALTH OF VIRGINIA
RICHMOND
1998**

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Report of the Virginia Code Commission
on the Recodification of Titles 14.1 and 17 of the
Code of Virginia

to

The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1998

TO: The Governor
and
The General Assembly of Virginia

The Virginia Code Commission voted to revise Titles 14.1 and 17 of the Code of Virginia and to report to the Governor and the 1998 Session of the General Assembly in the form of a recodified title. Because Title 14.1 covered such diverse areas of the law of costs, fees, salaries and allowances as salaries of state and local officials, fees collected by courts, and distribution of law-enforcement funds, the Commission decided to retire Title 14.1 and distribute the various Code provisions into the more appropriate titles of the Code. Many of these provisions have been moved into new Title 17.1. The remainder appear as new language predominantly in Title 2.1 and Title 15.2.

The Office of the Executive Secretary of the Supreme Court of Virginia and Mr. Baldwin's staff provided much appreciated assistance to the Commission during the drafting of the new title.

The Commission proposes that the recodification take effect October 1, 1998, and recommends that the General assembly enact legislation at the 1998 Session to adopt proposed Title 17.1 and the related proposed revisions throughout the Code.

Respectfully submitted,

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Chapter 2.1

Salaries, Compensation and Expenses

§ 2.1-20.2. Definitions.

As used in this article:

1. "Compensation" means any amount paid in addition to reimbursement for expenses.
2. "Expenses" means all reasonable and necessary expenses incurred in the performance of duties.
3. "Salary" means a fixed compensation for services, paid to part-time and full-time employees on a regular basis.

~~Article 1.~~

~~General Provisions.~~

~~§ 14.1-4~~ 2.1-20.5. How salaries, expenses and other allowances paid; time of payment.

The salaries, expenses and other allowances, including mileage, mentioned in this chapter, *Chapter 5 of this title and Chapter 1.1 of Title 30* shall, except where otherwise specifically provided, be paid out of the state treasury after being duly audited, and the Comptroller shall draw his warrants on the State Treasurer for the payment thereof. Salaries shall be paid every two weeks, semimonthly or monthly, at the discretion of the Comptroller, upon such dates as the Comptroller may prescribe. Expenses shall be paid when they shall have been incurred, and the other allowances shall be paid when the services shall have been rendered or the travel shall have been performed; but members of the General Assembly and others traveling to the seat of government who would be entitled to mileage for traveling home may receive such mileage before going home.

RATIONALE: Article 1 of Chapter 1 of Title 14.1 deals with the general provisions for salaries and expenses of office. Title 2.1 deals with the administration of the government generally and chapter 2.1 of the article deals with compensation and expenses of commissions, boards, etc. Therefore, incorporating certain sections of Article 1 of Chapter 1 of Title 14.1 (§§ 14.1-1 through 14.1-3, 14.1-4 through 14.1-6, 14.1-9, and 14.1-10) merely broadens the scope of Chapter 2.1 in Title 2.1.

~~§ 14.1-2~~ 2.1-20.6. Increase in salaries.

The salary of no state officer or employee ~~which~~ is payable by the Commonwealth and ~~which~~ is not specifically fixed by law *shall be hereafter increased, or authorized to be increased, without the written consent of the Governor.*

~~and the~~ The salary of no officer or employee of any state institution, board, commission or agency ~~which~~ is payable by the Commonwealth and not specifically fixed by law, shall be hereafter increased, or authorized to be increased, without prior *written* authorization of such board or commission and the *written* consent of the Governor ~~first obtained in writing in each case.~~

Any violation of this section shall constitute misfeasance in office. Nothing herein ~~contained~~ shall apply to teachers in the elementary ~~or~~ and high schools of the Commonwealth or to employees receiving compensation not in excess of \$100 per month.

RATIONALE: No substantive changes, but the text was reorganized to clarify when the Governor's written consent is needed and when a board or commission's authorization is needed to increase salaries.

~~§ 14.1-3~~ 2.1-20.7. Liability of salary of officer for debt he owes Commonwealth; how enforced: *when officer's right to file petition barred.*

A. Whenever any officer, other than one whose office is created by the Constitution of this Commonwealth, is indebted to the Commonwealth for money collected by him or improperly drawn by him or upon his order from the state treasury during his term of office and, after payment of such indebtedness is demanded by the Comptroller, such officer continues in default, the Comptroller shall not issue his warrant for, nor shall the State Treasurer pay, any part of the salary due, or to become due, to such officer until he shall have made good his default. He may, however, file his petition in the Circuit Court of the City of Richmond against the Comptroller, asserting his claim to his salary, and praying for payment thereof. The Comptroller shall ~~make~~ answer ~~to~~ the petition, and thereupon the proceedings shall be according to the provisions of Article 18 (§ 8.01-192 et seq.) of Chapter 3 of Title 8.01 and § 8.01-255. If it be found that the petitioner is indebted as aforesaid, the Commonwealth shall be credited on his salary then due with the amount of such indebtedness and if, after such credit is thus given, there is a balance in his favor, judgment therefor shall be rendered in his behalf. If the indebtedness exceeds his salary then due, judgment for the excess shall be rendered against him and the amount thereof, unless sooner paid, shall be credited to the Commonwealth on his salary thereafter becoming due. The Comptroller shall issue his warrant on the State Treasurer for the payment of any judgment thus rendered in behalf of the petitioner. In the proceeding by petition

the Attorney General shall represent the Commonwealth, unless he be interested; and if he be interested, the Comptroller shall employ other counsel to represent the Commonwealth in the case.

B. If such officer fails to file a petition under this section within twelve months after payment of any installment of his salary is withheld as aforesaid, his right to file the same shall be barred; and in such case the Comptroller shall credit the Commonwealth on the officer's salary with the amount of his indebtedness, and make that fact appear on the books of his office.

RATIONALE: See explanation at end of § 14.1-4 on page 4.

~~§ 14.1-3.1~~ 17.1-222.1. Collection of fees, etc., by court clerks in lieu of money.

The clerks of the several courts of the Commonwealth may, in lieu of money, collect or secure all fees, and fines and penalties collected for offenses committed against the Commonwealth or against any county, city or town, and for payment of spousal or child support, by check, draft, *credit card* or order for the payment of money. Such clerks shall not by virtue of acceptance of any such check, draft, *credit card* or order be held to be guarantors of the payment thereof, but they shall exercise ordinary care in such acceptance.

RATIONALE: Reference to acceptance of credit card is added for those offices which do accept such form of payment.

~~§ 14.1-4. When officer's right to file petition under § 14.1-3 barred.~~

~~If such officer fails to file a petition under § 14.1-3 within twelve months after payment of any installment of his salary is withheld as aforesaid, his right to file the same shall be barred; and in such case the Comptroller shall credit the Commonwealth on the officer's salary with the amount of his indebtedness, and make that fact appear on the books of his office.~~

RATIONALE: Originally, § 14.1-4 immediately followed § 14.1-3. Later, § 14.1-3.1 was inserted between the two and now seems unrelated to both §§ 14.1-3 and 14.1-4. It seems more logical for the two sections to be consolidated into one as they deal with the same topic. (§ 14.1-3.1, Collection of fees, etc., by court clerks in lieu of money, has been moved to new § 17.1-222.1.)

~~§ 14.1-5~~ 2.1-20.8. Traveling expenses on state business; public or private transportation.

Pursuant to ~~§ 14.1-5.2~~ 2.1-20.10, any person traveling on state business shall be entitled to reimbursement for certain of his actual expenses as are necessary and ordinarily incidental to such travel. If ~~conveyance~~ transportation is by public ~~transportation~~ means, reimbursement shall be at the actual cost thereof. If ~~conveyance~~ transportation is by private ~~transportation~~ means, reimbursement shall be at the rate as specified in the current general appropriation act of the Commonwealth. ~~The members and employees of public school boards may be reimbursed for private transportation at a rate not greater than that which is authorized for persons traveling on state business hereunder. Whatever rate is paid, however, shall be the same both for board members and for employees of the board.~~

RATIONALE: Editorial changes. The last two lines have been reworded and moved to Title 22.1 (§§ 22.1-32, Salary of Members and 22.1-296, Payment of Employees).

§ 22.1-32. Salary of members.

A. The school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Accomack - \$3,000.00;
 Albemarle - \$3,300.00;
 Alleghany - \$1,500.00;
 Amelia - \$1,200.00;
 Amherst - \$2,400.00;
 Appomattox - \$3,000.00;
 Arlington - \$8,000.00;
 Augusta - \$2,400.00;
 Bath - \$3,500.00;
 Bedford - \$2,400.00;
 Bland - \$2,400.00;
 Botetourt - \$3,600.00;
 Brunswick - \$1,800.00;

Buchanan - \$1,800.00;
Buckingham - \$3,600.00;
Campbell - \$2,400.00;
Caroline - \$2,400.00;
Carroll - \$2,400.00;
Charles City - \$2,400.00;
Charlotte - \$2,400.00;
Chesterfield - \$7,000.00;
Clarke - \$1,200.00;
Craig - \$2,500.00;
Culpeper - \$3,500.00;
Cumberland - \$1,800.00;
Dickenson - \$1,500.00;
Dinwiddie - \$2,700.00;
Essex - \$1,800.00;
Fairfax - \$12,500.00;
Fauquier - \$5,000.00;
Floyd - \$3,000.00;
Fluvanna - \$2,400.00;
Franklin - \$3,600.00;
Frederick - \$2,400.00;
Giles - \$2,400.00;
Gloucester - \$3,000.00;
Goochland - \$2,400.00;
Grayson - \$3,000.00;
Greene - \$3,600.00;
Greensville - \$1,800.00;
Halifax - \$2,400.00;
Hanover - \$4,600.00;
Henrico - \$7,000.00;
Henry - \$2,400.00;
Highland - \$2,000.00;
Isle of Wight - \$4,000.00;
James City - \$3,000.00;
King and Queen - \$2,400.00;
King George - \$3,600.00;
King William - \$2,400.00;
Lancaster - \$3,000.00;
Lee - \$2,400.00;
Loudoun - \$8,000.00;
Louisa - \$3,600.00;
Lunenburg - \$2,400.00;
Madison - \$1,800.00;
Mathews - \$1,240.00;
Mecklenburg - \$1,500.00;
Middlesex - \$1,200.00;
Montgomery - \$3,600.00;
Nelson - \$1,800.00;
New Kent - \$1,200.00;
Northampton - \$1,800.00;
Northumberland - \$2,400.00;
Nottoway - \$2,400.00;
Orange - \$2,500.00;
Page - \$3,600.00;

Patrick - \$1,600.00;
 Pittsylvania - \$3,000.00;
 Powhatan - \$5,000.00;
 Prince Edward - \$2,400.00;
 Prince George - \$1,800.00;
 Prince William - \$8,000.00;
 Pulaski - \$1,800.00;
 Rappahannock - \$600.00;
 Richmond - \$3,400.00;
 Roanoke - \$6,000.00;
 Rockbridge - \$1,200.00;
 Rockingham - \$3,800.00;
 Russell - \$1,800.00;
 Scott - \$2,400.00;
 Shenandoah - \$2,400.00;
 Smyth - \$2,400.00;
 Southampton - \$2,400.00;
 Spotsylvania - \$7,500.00;
 Stafford - \$2,400.00;
 Surry - \$2,400.00;
 Sussex - \$2,100.00;
 Tazewell - \$2,400.00;
 Warren - \$1,500.00;
 Washington - \$6,000.00;
 Westmoreland - \$2,400.00;
 Wise - \$4,800.00;
 Wythe - \$2,400.00;
 York - \$4,000.00.

B. The school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Alexandria - \$5,000.00;
 Bristol - \$1,500.00;
 Charlottesville - \$3,000.00;
 Chesapeake - \$5,000.00;
 Colonial Beach - \$1,500.00
 Covington - \$1,500.00;
 Danville - \$ 600.00;
 Emporia - \$ 240.00;
 Fairfax - \$3,000.00;
 Fredericksburg - \$3,600.00;
 Fries - \$ 240.00;
 Hampton - \$3,000.00;
 Hopewell - \$2,400.00;
 Lexington - \$ 600.00;
 Manassas - \$2,400.00;
 Manassas Park - \$1,800.00;
 Martinsville - \$2,400.00;
 Newport News - \$3,000.00;
 Norfolk - \$3,000.00;
 Norton - \$1,800.00;
 Petersburg - \$2,400.00;
 Poquoson - \$3,000.00;
 Portsmouth - \$2,700.00;
 Radford - \$3,600.00;

Richmond - \$7,000.00;
 Roanoke - \$3,000.00;
 Salem - \$1,700.00;
 South Boston - \$ 600.00;
 Suffolk - \$3,500.00;
 Virginia Beach - \$3,600.00;
 Waynesboro - \$2,400.00;
 Williamsburg - \$3,000.00.

C. Any school board may in its discretion, pay the chairman of the school board an additional salary not exceeding \$1,100 per year upon passage of an appropriate resolution by (i) the school board whose membership is elected in whole or in part, or (ii) the governing body of the appropriate county, city, or town whose school board is comprised solely of appointed members.

D. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. *Its members may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.1-20.10. Whatever rate is paid, however, shall be the same for school board members and employees of the board.*

E. Contingent upon finalization of the planned consolidation of the school divisions of Alleghany County and the City of Clifton Forge, the members of the newly consolidated school board representing the City of Clifton Forge shall be paid an amount equal to that paid the members of the present school board of Alleghany County.

F. No school board shall request the General Assembly's consideration of an increase in its annual salary limit as established in this section unless such school board has taken an affirmative vote on the requested increase. Further, no school board, whose membership is elected in whole or in part, shall be awarded a salary increase, unless, upon an affirmative vote by such school board, a specific salary increase, within the limit set herein, shall be approved. Every proposed change in the annual salary for members of local school boards shall be adopted consistent with procedures applicable to salary changes for the relevant local governing body.

RATIONALE: Moves school board members private transportation reimbursement language from § 14.1-5 to this section dealing with school board member salaries.

§ 22.1-296. Payment of employees; *reimbursement for private transportation.*

Each school board shall provide for the payment of teachers, principals, assistant principals and other employees monthly, semi-monthly or biweekly, as may be determined by the school board.

All school board employees may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.1-20.10. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

RATIONALE: Moves school board employees private transportation reimbursement language from § 14.1-5 to this section dealing with payment of such employees.

§ ~~14.1-5.1~~ 2.1-20.9. Monitoring travel expenses while on state business.

It shall be the duty of the head of each state agency, commission, or board, or his designee, or any other official granted supervisory control for the expending of state funds to scrutinize all applications for the reimbursement of personal funds expended by any employee of such agency, commission, or board for travel while conducting official business for state government. All such expenditures shall be necessary and reasonable for the efficient and effective operation of the agency, commission or board.

RATIONALE: No changes.

§ ~~14.1-5.2~~ 2.1-20.10. Reimbursement for certain travel expenditures; *restrictions on reimbursement.*

Persons conducting official business of the Commonwealth shall be reimbursed for their reasonable and necessary travel expenditures which shall include transportation as provided in § ~~14.1-5~~, 2.1-20.8, parking, and lodging. Receipts for lodging and transportation, if by other than privately owned automobile or state-owned vehicle, shall be submitted with any travel expense account presented to the Comptroller for payment. Transportation by common carrier shall be limited to the cost for travel

by the most direct ~~practicable~~ *and practical* route, and in amounts not exceeding those for tourist or coach class accommodations, if such accommodations are available. *Travel shall be over the most direct and practical route. Reimbursement for the cost of transportation shall not be certified to the Comptroller for payment by state agencies in excess of the reimbursement allowed in § 2.1-20.8 except in an emergency or, when in the interest of the Commonwealth, a greater expense is justified, the facts in each such instance to be stated in the expense account.* Persons conducting official business of the Commonwealth shall be reimbursed for the reasonable and necessary actual costs of meals, gratuities, and other incidental expenses. At the discretion of the governing authority, a per diem payment may be made in lieu of this reimbursement for meals, gratuities, and other incidental expenses. The Comptroller shall establish policies on travel expenses for all agencies in the executive branch of government. Policies on travel expenses for the legislative branch, judicial branch, and independent agencies shall be established by the appropriate governing authority.

RATIONALE: The new language in the first paragraph is old § 14.1-6. Because this section and § 14.1-6 both deal with travel expense reimbursement, they have been combined into one.

~~§ 14.1-5.3~~ 2.1-20.11. ~~Review~~ Travel expense accounts; review by Comptroller.

All travel expense account shall be submitted on forms prescribed or approved by the Comptroller. Review shall be made by the Comptroller of ~~travel expense~~ such accounts subject to provisions of § 2.1-227. If accounts do not conform to the provisions of ~~§ 14.1-10 or § 14.1-5.2~~ 2.1-20.10, the Comptroller shall return those accounts not in conformity to the agency or commission with an explanation of why they do not conform. The agency or commission may correct the accounts and resubmit them to the Comptroller.

RATIONALE: Cite change due to recodification. First sentence comes from old § 14.1-10 dealing with travel expense accounts.

~~§ 14.1-6.~~ Same; travel to be over most direct and practical route; restrictions on reimbursement.

~~Travel shall be over the most direct and practical route. Reimbursement for the cost of conveyance shall not be certified to the Comptroller for payment by state agencies in excess of the reimbursement allowed in § 14.1-5 except in an emergency or, when in the interest of the Commonwealth, a greater expense is justified, the facts in each such instance to be stated in the expense account.~~

RATIONALE: The second sentence of this section has been added to § 2.1-20.10. The first sentence of this section is already in § 2.1-20.10.

~~§ 14.1-7~~ 15.2-1508.1. Traveling expenses on business of town, city or county.

Any person traveling on business of any ~~county, city, or town~~ locality except as hereinafter provided, wherein no part of the cost is borne by the Commonwealth may be reimbursed by such ~~county, city, or town~~ locality on a basis established by the governing body of such ~~county, city or town~~ locality; however, the rate of reimbursement per mile for private transportation shall not exceed the standard rate deductible as a business expense pursuant to the Internal Revenue Code and regulations promulgated thereunder.

RATIONALE: Relocates the section to the chapter in Title 15.2 relating to local government personnel. Changes "county, city or town" to "locality" in accordance with Title 15.2 recodification.

~~§ 14.1-8~~ 15.2-1508.2. Same; where Commonwealth bears portion of expenses.

Any person traveling on business of any ~~county,~~ ~~except as hereinafter provided~~ locality wherein the Commonwealth is required to bear a portion of the expenses may be reimbursed by any such ~~county~~ locality on a basis not in excess of that provided in ~~§ 14.1-5~~ 2.1-20.8 but the portion to be borne by the Commonwealth shall be subject to the approval of the State Compensation Board; ~~and any person traveling on business of any town, city or any county operating under the county manager or county executive form of organization and government provided for in Chapters 13 (§ 15.1-582 et seq.) or 14 (§ 15.1-669 et seq.) of Title 15.1, wherein the Commonwealth is required to bear a portion of the expenses may be reimbursed by any such town, city or county on a basis and in a manner that the governing body of such town, city or county may provide, but the portion to be borne by the Commonwealth shall be subject to the approval of the State Compensation Board.~~

RATIONALE: Relocates the section to the chapter in Title 15.2 relating to local government personnel. Treats all localities the same regarding reimbursement of travel expenses for persons traveling on business of a locality.

~~§ 14.1-9 2.1-20.12.~~ What included in mileage under §§ ~~14.1-5 2.1-20.8~~ and ~~14.1-19 30-19.15~~.

Mileage allowed under §§ ~~14.1-5 2.1-20.8~~ and ~~14.1-19 30-19.15~~ shall be construed to include all costs incident to the maintenance and operation of private ~~conveyance~~ *transportation* except storage and parking fees, turnpike, tunnel, ferry and bridge tolls.

RATIONALE: Cite changes due to recodification.

~~§ 14.1-10. Travel expense accounts.~~

All travel expense accounts shall be submitted on forms prescribed or approved by the Comptroller. They shall be in adequately explanatory detail and shall state the purpose of or reason for such travel expense. The Comptroller shall withhold issuance of warrants on accounts which do not comply with this section.

RATIONALE: The first sentence of this section has been added to § 2.1-20.11 (old § 14.1-5.3). The other two sentences are redundant of § 2.1-20.11 and therefore, deleted entirely.

~~§ 14.1-11.1 15.2-1508.3.~~ Governing bodies of certain cities and counties may supplement salaries and reimburse traveling expenses of employees of state and local health departments.

The Counties of Arlington, Clarke, Loudoun, Prince William, and Fairfax may, in the discretion of their governing bodies, pay to persons employed by the State Department of Health, within such counties, in addition to the salaries as may be paid to such employees by the State Board of Health, such sum or sums of money as they may deem expedient. For a period not to exceed two years commencing July 1, 1985, the City of Richmond, may, in the discretion of its governing body, pay to the health director of its local health department, in addition to the salary as may be paid to such director by the State Board of Health, such sum or sums of money as it may deem expedient.

In addition to supplementing the salaries of such employees as provided herein such county may reimburse such employees who travel on business of any such county, who are required to bear a portion of such travel expense in excess of the amount allowed by § ~~14.1-5 2.1-20.8~~, from the funds of such county, upon such basis and in such manner as its governing body may prescribe.

RATIONALE: Relocates the section to the chapter in Title 15.2 relating to local government personnel. Language stricken for which time period has expired. Because this section only applies to a few localities, the Code Commission may want to carry this section by reference only.

~~§ 14.1-11.2 15.2-1508.4.~~ Certain counties and cities may supplement salaries and reimburse traveling expenses of employees of state mental health clinics.

Any county having a population of more than 4,000 inhabitants per square mile, or any county having a population of over 150,000, according to the 1960 or any subsequent census, and any city wholly within the boundaries of such counties, and any city having a population of not less than 90,000 nor more than 95,000, according to the 1960 or any subsequent census, may, in the discretion of its governing body, pay to persons employed in state mental health clinics, within such county, in addition to the salaries as may be paid to such employees by the Commonwealth, such sum or sums of money as it may deem expedient.

In addition to supplementing the salaries of such employees as provided herein, such county may reimburse such employees who travel on business of any such county, who are required to bear a portion of such travel expenses in excess of the amount allowed by § ~~14.1-5 2.1-20.8~~, from the funds of such county, upon such basis and in such manner as its governing body may prescribe.

RATIONALE: Relocates the section to the chapter in Title 15.2 relating to local government personnel. The 1960 census language was added because there is a provision in Title 1 (§ 1-13.22) which basically says that any reference to population shall be based on the most recent U.S. Census preceding the change in the law unless otherwise provided. With this recodification, the most recent census would be 1980 and, therefore, not encompass the localities originally intended. Because this section only applies to a few localities, the Code Commission may want to carry this section by reference only.

~~§ 14.1-11.4 15.2-1605.1.~~ Supplementing compensation of certain county and city officers and their employees.

Notwithstanding any other provision of law, the governing body of any county or city, in its discretion, may supplement the compensation of the ~~sergeant~~, sheriff, treasurer, commissioner of the revenue, clerk of the circuit court, director of finance, or attorney for the Commonwealth, or any of

their deputies or employees, above the salary of any such officer, deputy or employee established in this title, in such amounts as it may deem expedient. Such additional compensation shall be wholly payable from the funds of any such county or city.

RATIONALE: This article (§ 15.2-1605) deals with constitutional officers in general and this section (old § 14.1-11.4) is addressing supplementation of such officers' compensation.

~~§ 14.1-11.5: 15.2-1635.1. Not set out; Maximum total compensation for clerk of court in certain county counties.~~

In Arlington, Loudoun, Fairfax, Fauquier and Rappahannock Counties wherein the clerk of the circuit court serves also as the clerk of the general district court and juvenile and domestic relations district court under the provisions of § 16.1-69.38, such clerk may be paid a sum not to exceed five thousand dollars, by local supplement, for each of the two district courts served; ~~in addition to the salary allowed by § 14.1-143.~~

Editor's note. - This section, increasing the compensation of the clerks of the Circuit Court in Arlington, Loudoun, Fairfax, Fauquier and Rappahannock Counties, was enacted by Acts 1974, c. 165. In furtherance of the general policy of the Commission to include in the Code only provisions having general and permanent application, this section, which is limited in its purpose and scope, is not set out here, but attention is called to it by this reference.

RATIONALE: § 15.2-1635 deals with clerks of the circuit court in general and this section (old § 14.1-11.5) addresses such clerks in certain counties.

~~Article 2-~~

~~State Officials and Assistants~~

~~§ 14.1-12. Salaries of Governor and other officers.~~

~~The Governor and all officers of the Commonwealth shall receive annually for their services such salaries as shall be fixed by law.~~

~~§ 2.1-38. Salaries of Governor and other officers; Administrative administrative assistants.~~

~~A. The Governor and all officers of the Commonwealth shall receive annually for their services such salaries as shall be fixed by law.~~

~~B. The Governor may employ such administrative assistants, one of which may be a chief of staff, as may be necessary and may fix their salaries within the limitation of funds appropriated for executive control of the Commonwealth. Any chief of staff appointed by the Governor shall be confirmed by a majority of the members in each house of the General Assembly. The Governor may employ such staff as may be required to perform such services as may be necessary in the operation of the Executive Mansion.~~

RATIONALE: Chapter 5 of Title 2.1 deals with the Governor and § 2.1-38 discusses administrative assistants and their salaries in part. Section 14.1-12 deals with salaries of the Governor and other officers, so § 2.1-38 was broadened to include the § 14.1-12 language.

~~§ 14.1-13 2.1-38.3. Clerical forces and office expenses of Governor, Attorney General and State Corporation Commission.~~

~~The Governor, the Attorney General and the State Corporation Commission each may appoint such clerical force as may be deemed necessary to the efficiency of their his respective offices office, but the aggregate amount paid such clerks shall not exceed the sum provided by law; and they he may expend for the contingent expenses of their respective offices his office such sums as may be provided by law.~~

~~§ 12.1-12. Powers and duties generally.~~

Subject to such requirements as may be prescribed by law, the Commission shall be the department of government through which shall be issued all charters, and amendments or extensions thereof, of domestic corporations and all licenses of foreign corporations to do business in this Commonwealth. Except as may be otherwise prescribed by law, the Commission shall be charged with the duty of administering the laws made for the regulation and control of corporations doing business in this Commonwealth. Subject to such criteria and other requirements as may be prescribed by law, the Commission shall have the power and be charged with the duty of regulating the rates, charges, services, and facilities of all public service companies as defined in § 56-1. The Commission shall in proceedings before it insure that the interests of the consumers of the Commonwealth are represented, unless the General Assembly otherwise provides for representation of such interests. *The*

Commission may appoint such clerical force as may be deemed necessary to the efficiency of its office, but the aggregate amount paid such clerks shall not exceed the sum provided by law; and it may expend for the contingent expenses of its office such sums as may be provided by law. The Commission shall have such other powers and duties as may be prescribed by law.

RATIONALE: New § 2.1-38.3 will include the language from § 14.1-13 applicable to the Governor and will reside in the Code in the chapter dealing with the Governor.

§ 2.1-131 addresses the same matter with regard to the Attorney General alone and therefore that portion of § 14.1-13 is redundant and unnecessary.

§ 12.1-12 will include this language as it applies to the State Corporation Commission. § 12.1-12 addresses the powers and duties of the SCC and the appointment of a clerical force falls within that heading.

~~§ 14.1-14. Disposition of fees of Secretary of the Commonwealth.~~

~~All fees mentioned in § 14.1-103, and all other fees of office and commissions accruing, shall be collected by the Secretary of the Commonwealth, and shall be paid by him into the state treasury.~~

§ 2.1-68. Keeper of seals of Commonwealth; duties generally.

~~He~~ *The Secretary of the Commonwealth shall be keeper of the seals of the Commonwealth; keep a record of all executive acts, arrange and preserve all records and papers belonging to the executive department; be charged with the clerical duties of that department, and render to the Governor, in the dispatch of executive business, such services as he requires. He* ~~The Secretary of the Commonwealth shall record or register all papers or documents required by law to be registered or recorded in his office, and when required furnish a copy of any record in his office under the seal of the Commonwealth.~~

~~He~~ *The Secretary of the Commonwealth is authorized to authenticate records of any court of the Commonwealth and of any department of the government. He shall keep a register of all city, incorporated town, county, and district officers, and when required give a certificate of the election and qualification of any such officer.*

~~He~~ *The Secretary of the Commonwealth shall make an annual report to the Governor, embracing (a) the boards of visitors of all public institutions, and other boards appointed by the Governor; (b) all commissions issued under appointments made by the Governor, except commissions to notaries public; (c) and such matters as the Governor requires. The reports shall be transmitted by the Governor to the General Assembly, printed as other such annual reports are printed, bound in a separate volume, and disposed of according to law.*

The Secretary of the Commonwealth shall collect all fees mentioned in § 2.1-71.2, and all other fees of office and commissions accruing and pay them into the state treasury.

RATIONALE: § 2.1-68 delineates the duties of the Secretary of the Commonwealth. The collection of fees and payments into the state treasury is another additional duty. Therefore, § 14.1-14 has been reworded and included as the last sentence in § 2.1-68.

~~§ 14.1-15. Disposition of fees of State Treasurer.~~

~~All fees of office and commissions accruing to the State Treasurer shall be paid into the state treasury.~~

§ 2.1-180. Payment of state funds into state treasury; deposits in state depositories; credit of fund not paid into general fund; exceptions as to endowments and gifts to institutions; appropriations by federal government.

Every state department, division, officer, board, commission, institution or other agency owned or controlled by the Commonwealth, whether at the seat of government or not, collecting or receiving public funds, or moneys from any source, belonging to or for the use of the Commonwealth, or for the use of any state agency, shall hereafter pay the same promptly into the state treasury, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, or claims. *All fees of office and commissions accruing to the State Treasurer shall be paid into the state treasury.*

Any state department, division, officer, board, commission, institution or other agency at the seat of government shall deposit such moneys to the credit of the State Treasurer upon communicating with him and receiving instructions from him as to what state depository may be used for the purpose. In every such case the depositor shall retain a deposit receipt or a certificate of the deposit certified by the bank receiving the deposit for every such deposit to the State Treasurer and send to

the Comptroller a copy of the deposit receipt, certificate, or other documentation supporting the deposit, as prescribed by the Comptroller.

Any state department, division, officer, board, commission, institution or other agency not at the seat of government, other than county and city treasurers and clerks of courts, depositing such moneys to its or his credit in local banks shall deposit such moneys to the credit of the State Treasurer in a ~~local~~ state depository duly designated in pursuance of this chapter as such, and in every such case such depositor shall retain a deposit receipt or a certificate of the deposit certified by the bank receiving the deposit for every such deposit to the State Treasurer and send to the Comptroller a copy of the deposit receipt, certificate, or other documentation supporting the deposit, as prescribed by the Comptroller. Moneys deposited into such ~~local~~ state depositories shall be transferred to a concentration bank as prescribed by the State Treasurer.

~~But in no case shall a state depository receive a larger sum to the credit of the State Treasurer than the amount covered by surety bond and securities held by the State Treasurer to protect state funds on deposit in such depository.~~ Moneys paid into the state treasury which are not now payable into the general fund of the state treasury shall be placed to the credit of the respective accounts which are required by law to be kept on the books of the Comptroller or to the credit of new accounts to be opened on the books of the Comptroller with such agencies so paying such moneys into the state treasury, respectively.

This chapter shall not apply to the endowment funds or gifts to institutions owned or controlled by the Commonwealth, or to the income from such endowment funds or gifts, or to private funds belonging to the students or inmates of state institutions. The cash as well as the notes of student loan funds shall be held by the respective institutions.

Appropriations made by the government of the United States to or for the benefit of any state institution or agency, however, shall be paid into the state treasury and used for the purposes for which such appropriations were made.

RATIONALE: § 2.1-180 addresses payment of state funds into the state treasury. Therefore, § 14.1-15, Disposition of fees of State Treasurer, has been added to § 2.1-180. Language deleted in middle of the section (lines 20-22) was done so at the suggestion of the State Treasurer as being outdated and unnecessary.

~~§ 14.1-16. Commissioner of Mental Health, Mental Retardation and Substance Abuse Services; officers and employees of hospitals.~~

~~The whole time of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall be devoted to the duties of his office. In addition to his salary he shall receive his necessary traveling expenses, not to exceed the amount provided by law, while engaged in the duties of his office. The directors and other officers and employees of the respective hospitals shall each annually receive such salaries as shall be fixed from time to time in the general appropriation acts, and when they occupy buildings on the grounds or belonging to the respective institutions, they shall pay therefor such rental as may be fixed in accordance with law.~~

§ 37.1-39. Creation and supervision of Department.

The Department of Mental Health, Mental Retardation and Substance Abuse Services is hereby established in the executive department responsible to the Governor. The Department shall be under the supervision and management of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services. The Commissioner shall carry out his management and supervisory responsibilities in accordance with the policies, rules and regulations of the Board. *In addition to his salary he shall receive his necessary traveling expenses, not to exceed the amount provided by law, while engaged in the duties of his office.*

§ 37.1-42.3. Salaries of directors and other officers and employees of state facilities.

The directors and other officers and employees of the respective hospitals shall each annually receive such salaries as shall be fixed from time to time in the general appropriation acts, and when they occupy buildings on the grounds or belonging to the respective institutions, they shall pay therefor such rental as may be fixed in accordance with law.

RATIONALE: The first sentence in the section is unnecessary when considering § 37.1-39 which addresses the creation of the Department of Mental Health, Mental Retardation and Substance Abuse Services and its supervision by the Commissioner. The second sentence

continues to focus on the Commissioner and his salary and expenses and therefore has been added to § 37.1-39.

The final sentence of § 14.1-16 addresses salaries of directors and other hospital employees. A new § 37.1-42.3, Salaries of directors and other officers and employees of state facilities, has been created for this language and follows § 37.1-42.2, Employment and qualifications of directors of state facilities.

(Title 30)

Chapter 1.1

General Assembly Salaries and Expenses

§ ~~14.1-17.1~~ 30-19.11. Salaries of Speaker of House of Delegates and members of General Assembly.

The Speaker of the House of Delegates and other members of the General Assembly shall each receive an annual salary as shall be set forth in the general appropriations act. Such salaries shall be payable not more often than biweekly.

RATIONALE: Article 3 of Chapter 1 of Title 14.1 deals with General Assembly related salaries and expenses. Chapter 1 of Title 30 deals with the General Assembly and officers thereof in which it covers meeting time and place of the General Assembly, duties of the officers of each house, legislation procedures, etc. Therefore, a new Chapter 1.1 containing old Article 3 of Chapter 1 of Title 14.1 has been inserted in Title 30. (This includes §§ 14.1-17.1 through 14.1-23.)

§ ~~14.1-18~~ 30-19.12. Compensation of members of General Assembly and certain commissions engaged in legislative services.

A. Subject to the provisions of subsections B through E hereof, members of legislative committees, all legislative commissions and councils established by the General Assembly and all committees and subcommittees of any of the foregoing shall receive compensation at such rate as shall be set forth in the general appropriations act for the time actually engaged in the discharge of their duty. Any other member of the General Assembly whose attendance, in the opinion of the chairman of such a group, is required at a sitting of such group shall also be entitled to compensation at the same rate.

B. Legislative members shall not be entitled to compensation pursuant to this section for any services performed on any day that the General Assembly is in session.

C. Full-time employees of the Commonwealth or of any of its political subdivisions shall not be entitled to compensation pursuant to this section.

D. No person shall receive pursuant to this section a total of more than one day's compensation for services performed on any one day. Whenever a member attends two or more meetings for which compensation is authorized herein in a single day, such one day's compensation shall be prorated from among the activities served.

E. Compensation of members of the General Assembly provided for in this section shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate as appropriate and funds therefor transferred from the appropriate activity.

RATIONALE: No changes.

§ ~~14.1-18.1~~ 30-19.13. Additional provisions for expenses of members and presiding officers of General Assembly.

Each member of the General Assembly shall, during any regular session of the General Assembly or extension thereof, or during any special session of the General Assembly, receive for each day as allowances for expenses such sum as shall be set forth in the general appropriations act and mileage allowance at the rate provided in § ~~14.1-5~~ 2.1-20.8 or actual expenses for all official travel. Such mileage or travel reimbursement shall be allowed only for one round trip each week between the City of Richmond and such person's home.

RATIONALE: Cite change due to recodification.

§ ~~14.1-18.2~~ 30-19.14. Office expenses.

Each member of the General Assembly shall receive as reimbursement for office expenses and supplies such sums as shall be set forth in the general appropriations act.

RATIONALE: No changes.

§ ~~14.1-19~~ 30-19.15. Mileage of members of the General Assembly, legislative committees, etc.

The members of the General Assembly and officers and employees of each house thereof, and members of legislative committees which may sit during any recess of the General Assembly, each shall receive ~~as and~~ for their mileage such reimbursement as prescribed in § ~~14.1-5~~ 2.1-20.8 for every mile of necessary travel to and from the place of meeting, to be computed according to the nearest principal highway route as shown on the Official State Highway Map.

RATIONALE: Editorial change and cite change due to recodification.

§ ~~14.1-19.1~~ 30-19.16. Expenses of members of General Assembly attending certain meetings, etc.

Whenever a member of the General Assembly is required to travel for official attendance as a representative of the General Assembly at any meeting, conference, seminar, workshop or conclave, which is not conducted by the Commonwealth of Virginia or any of its agencies or instrumentalities, such member shall be entitled to reimbursement from the contingent fund of the General Assembly for expenses incurred by him for common carrier fares and lodging, appropriate mileage allowance for the use of a privately owned motor vehicle, registration fees, a per diem of thirty-five dollars for meals, compensation pursuant to § ~~14.1-18~~ 30-19.12 and all other expenses incurred which are incidental to such travel.

RATIONALE: Cite change due to recodification.

§ ~~14.1-20~~ 30-19.17. Distance between Richmond and the courthouses of counties and certain cities.

For the purpose of this ~~article~~ chapter and Chapters 2.1 and 5 of Title 2.1 only, the following shall be computed as the number of miles between the City of Richmond and the respective courthouses of the following counties:

County	Distance in Miles
-----	-----
Accomack	160
Albemarle	70
Alleghany	176
Amelia	38
Amherst	101
Appomattox	90
Arlington	105
Augusta	108
Bath	177
Bedford	136
Bland	249
Botetourt	156
Brunswick	72
Buchanan	347
Buckingham	68
Campbell	109
Caroline	41
Carroll	232
Charles City	30
Charlotte	85
Chesterfield	15
Clarke	132
Craig	191
Culpeper	89
Cumberland	49
Dickenson	358
Dinwiddie	40
Essex	45
Fairfax	105
Fauquier	93

Floyd	204
Fluvanna	63
Franklin	162
Frederick	135
Giles	230
Gloucester	59
Goochland	30
Grayson	262
Greene	83
Greensville	64
Halifax	111
Hanover	19
Henry	172
Highland	152
Isle of Wight	77
James City	50
King and Queen	47
King George	60
King William	31
Lancaster	81
Lee	375
Loudoun	130
Louisa	50
Lunenburg	74
Madison	89
Mathews	72
Mecklenburg	96
Middlesex	53
Montgomery	197
Nelson	95
New Kent	29
Northampton	129
Northumberland	71
Nottoway	59
Orange	73
Page	124
Patrick	199
Pittsylvania	150
Powhatan	30
Prince Edward	63
Prince George	30
Prince William	95
Pulaski	223
Rappahannock	113
Richmond	52
Roanoke	170
Rockbridge	134
Rockingham	116
Russell	318
Scott	339
Shenandoah	157
Smyth	267
Southampton	67
Spotsylvania	52

Stafford	67
Surry	53
Sussex	51
Tazewell	303
Warren	125
Washington	297
Westmoreland	64
Wise	354
Wythe	242
York	63

The following shall be computed as the number of miles between the City of Richmond and the respective city halls of the following cities:

City	Distance in Miles
----	-----
Alexandria	103
Bedford	136
Bristol	312
Buena Vista	127
Charlottesville	70
Chesapeake	105
Clifton Forge	165
Colonial Heights	22
Covington	176
Danville	144
Emporia	64
Fairfax	105
Falls Church	106
Franklin	77
Fredericksburg	57
Galax	245
Hampton	77
Harrisonburg	116
Hopewell	22
Lexington	134
Lynchburg	112
Martinsville	172
Newport News	77
Norfolk	92
Norton	348
Petersburg	23
Portsmouth	95
Radford	212
Roanoke	163
Salem	170
South Boston	112
Staunton	108
Suffolk	81
Virginia Beach	105
Waynesboro	95
Williamsburg	50
Winchester	135

RATIONALE: What was an article is now a chapter and the section also applies to Chapters 2.1 and 5 of Title 2.1.

§ ~~44.1-21~~ 30-19.18. How distance ascertained from place other than courthouse.

For the purpose of this ~~article~~ *chapter and Chapters 2.1 and 5 of Title 2.1* only, the distance of the City of Richmond from any place in any county or city other than the courthouse thereof, shall be ascertained by adding to or deducting from the number of miles between the City of Richmond and such courthouse, as declared by law, so many miles as such place may be farther from or nearer to ~~such city~~ *the City of Richmond* than such courthouse may be.

RATIONALE: What was an article is now a chapter and the section also applies to Chapters 2.1 and 5 of Title 2.1. City of Richmond language was added for clarification.

§ ~~14.1-22~~ *30-19.19*. Salaries of Clerks of Senate and House of Delegates.

The Clerk of the Senate and the Clerk of the House of Delegates shall each receive such salaries as shall be fixed from time to time by the general appropriation acts.

RATIONALE: No changes.

§ ~~14.1-23~~ *30-19.20*. Employment and compensation of personnel.

The Senate and the House of Delegates and the clerks thereof are authorized to employ such personnel as may be deemed necessary for the efficient operation of the General Assembly as prescribed by the rules or resolutions of the respective houses.

The Senate and House of Delegates shall by resolution or resolutions set the compensation of the personnel employed by each house, and the personnel shall be paid from the contingent fund of each house, respectively.

RATIONALE: No changes.

~~Article 4.~~

~~Judiciary.~~

~~Chapter 3.~~

~~Supreme Court.~~

~~Article 2.~~

~~Compensation and expenses; fees.~~

§ ~~14.1-29~~ *17.1-324*. Justices of Supreme Court.

The justices of the Supreme Court shall receive such salaries as shall be fixed from time to time in the general appropriation acts.

RATIONAL: No change. The provisions of Title 14.1 dealing with salaries, fees, etc. of the Supreme Court are being moved to the recodified Title 17.1 and will become a part of Chapter 3 (§ 17.1-300 et seq.) dealing with the Supreme Court, its jurisdiction, etc.

§ ~~14.1-30~~ *17.1-325*. Clerk and deputy clerks of Supreme Court.

The Clerk of the Supreme Court and the deputy clerks of the Court shall each receive an annual salary, ~~the amount of which shall be~~ *as* fixed by the Court. The salaries prescribed in this section for the Clerk and deputy clerks of the Supreme Court shall be the entire compensation for all services rendered by them, respectively, and shall be in lieu of any and all fees and other emoluments of their offices, prescribed by any other statutes or acts. A reasonable sum, ~~or sums,~~ *as approved by the Court*, shall be allowed for the necessary expenses of maintaining the offices of the Clerk, ~~the amount of which shall be approved by the Court.~~

Nothing herein contained, however, shall be construed to lessen or eliminate the authority of the General Assembly to fix and determine such salaries.

RATIONALE: Editorial changes only.

§ ~~14.1-31~~ *17.1-329*. Disposition of fees of Clerk of Supreme Court.

The Clerk of the Supreme Court shall keep an accurate account of all fees and costs collected by him and shall make monthly deposits thereof in a depository, or depositories, approved by the State Treasurer, to the credit of the Commonwealth of Virginia, ~~with a~~. A report of each deposit ~~being~~ *shall* be promptly submitted to the State Treasurer, and detailed reports thereof ~~being~~ *shall* be made monthly to the State Comptroller. All such fees and costs shall be credited by the Comptroller to the general fund of the state treasury.

RATIONALE: Editorial changes only

§ ~~14.1-32~~ *17.1-326*. Reporter of Supreme Court.

The reporter of the Supreme Court shall receive an annual salary, ~~the amount of which shall be~~ *as* fixed by the Court.

Nothing herein contained, however, shall be construed to lessen or eliminate the authority of the General Assembly to fix and determine such salary.

RATIONALE: Editorial changes.

~~§ 14.1-33~~ 17.1-523. Salaries of judges of circuit courts.

The judges of the circuit courts shall each receive such salary as shall be fixed from time to time in the general appropriation acts, ~~and such.~~ Such salary shall be the total compensation for circuit court judges; ~~provided, however, that.~~ However, any county or city which has, prior to March 1, 1976, maintained any program of supplemental retirement ~~and/or~~ or insurance for the benefit of such judges, may continue the same in effect as to judges theretofore covered thereby. The whole of such salaries shall be paid out of the state treasury.

RATIONALE: Editorial changes. This section is being moved to Article 2, Chapter 5 of new Title 17.1.

~~§ 14.1-35. Additional compensation of judge holding corporation court during vacancy in certain cities; cities of the first class.~~

~~Whenever a vacancy exists in the office of a judge of a corporation court of a city of the first class in which there is no circuit court and the judge of another court is designated to hold a term or terms of such corporation court until such vacancy is filled as provided in § 17-7, such judge so designated shall receive, in addition to his regular compensation, the same compensation for holding such term or terms as it is provided by law shall be paid to the judge of such corporation court when there is no vacancy. The annual compensation for such position shall be prorated in proportion to the time during which such judge is holding the term or terms of such corporation court; provided, however, that in no case shall such additional compensation be based on an annual rate higher than \$1,000 per year.~~

RATIONALE: Repeal. The office of judge referred to in this section no longer exists.

~~§ 14.1-36. Same; cities of the second class.~~

~~Whenever a vacancy exists in the office of the judge of a corporation court of a city of the second class in which there is no circuit court and the judge of another court is designated to hold a term or terms of such corporation court until said vacancy is filled as provided in § 17-7, such judge so designated shall receive, in addition to his regular compensation, the same compensation for holding said term or terms as it is provided by law shall be paid to the judge of said corporation court when there is no vacancy.~~

RATIONALE: Repeal. The office of judge referred to in this section no longer exists.

~~§ 14.1-37~~ 17.1-524. Traveling expenses of circuit judges.

In determining the reimbursement to which circuit judges are entitled under ~~§ 14.1-5~~ 2.1-20.8, judges who do not reside in the county seats of the counties in which they reside shall be reimbursed for travel between their residences and such county seats.

RATIONALE: No change. This section is being moved to Article 2, Chapter 5 of new Title 17.1.

~~§ 14.1-39. Salaries of judges in cities of less than 10,000 inhabitants.~~

~~Each city containing less than 10,000 inhabitants shall pay the salary of the judge of its corporation court.~~

RATIONALE: Repeal. The corporation courts of cities no longer exist.

~~§ 14.1-39.1~~ 17.1-327. Payment for services of retired judges; members of the State Corporation Commission and Virginia Workers' Compensation Commission.

Any justice, judge, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) and who is temporarily recalled to service shall be reimbursed for actual expenses incurred during such service and shall be paid a per diem of \$150 for each day he actually sits, exclusive of travel time.

RATIONALE: No change.

Article 5.

Part-Time District Judges.

~~§ 14.1-40.~~

~~Repealed by Acts 1972, c. 708; 1973, c. 546.~~

~~§§ 14.1-41 through 14.1-42.1.~~

~~Repealed by Acts 1980, c. 194.~~

~~§§ 14.1-42.2 through 14.1-44.~~

~~Repealed by Acts 1972, c. 708; 1973, c. 546.~~

Article 5.1-6

~~Magistrates. Compensation and Fees~~

~~§ 14.1-44.1. Magistrates to be paid salaries.~~

~~The magistrates of the counties and cities of the Commonwealth shall be paid salaries for their services to be determined as provided in this article.~~

RATIONALE: This provision is being deleted as unnecessary as this article is being merged with the establishment provisions for the magistrate system under Title 19.2.

~~§ 14.1-44.2 19.2-46.1. Salaries to be fixed by Committee on District Courts; limitations; mileage allowance.~~

Salaries of magistrates and any other personnel in the office of the magistrate shall be fixed by the Committee on District Courts established pursuant to § 16.1-69.33. Such salaries shall be fixed by the Committee at least annually at such time as it deems proper and as soon as practicable thereafter certified to the Comptroller and the Executive Secretary of the Supreme Court.

In addition to the salary authorized by this section, a magistrate may be reimbursed by the county or city for reasonable mileage expenses actually incurred in the performance of his duties.

In determining the salary of any magistrate, the Committee shall consider the work load of and territory and population served by the magistrate and such other factors it deems relevant. It may require of any magistrate or district judge information on the operation of the office of the magistrate.

The governing body of any county or city may add to the fixed compensation of magistrates such amount as the governing body may appropriate with the total amount not to exceed fifty percent of the amount paid by the Commonwealth to magistrates. No additional amount paid by a local governing body shall be chargeable to the Executive Secretary of the Supreme Court, nor shall it remove or supersede any authority, control or supervision of the Executive Secretary or Committee on District Courts.

RATIONALE: No change.

~~§ 14.1-44.2-1 19.2-46.2. Full-time magistrates; certification for retirement coverage.~~

The Committee on District Courts shall certify to the director of the Virginia Retirement System the names of those magistrates serving on a regular full-time basis. Certification by the Committee ~~will~~ shall qualify a magistrate to be as a state employee, for purposes of §§ 51.1-124.3 and 51.1-152 of the Virginia Retirement System (§ 51.1-124.1 et seq.), effective on the date given in the certificate as the date on which such magistrate first served on a regular full-time basis on or after January 1, 1974.

RATIONALE: Editorial changes.

~~§ 14.1-44.3. How salaries payable; appropriations.~~

~~The salaries fixed in accordance with the provisions of this article shall be paid in equal semimonthly installments.~~

~~The Commonwealth shall pay all of the salaries of magistrates provided under this article. Counties or cities may use discretion in adding to the fixed compensation.~~

RATIONALE: Repeal. The provisions of this section are covered under § 19.2-46.1 (former § 14.1-44.2).

~~§ 14.1-44.4 19.2-47.1. Disposition of funds.~~

All funds paid to and collected by or on behalf of a magistrate shall be paid promptly to the appropriate district court clerk, circuit court clerk, commissioner in chancery, department of the Commonwealth, federal agency or as otherwise authorized by statute.

RATIONALE: No change

~~§ 14.1-44.5. Special transition provision.~~

~~Any magistrate, who was in office as a justice of the peace December 31, 1973, and is completing his term as provided under § 19.2-30, may be paid a salary determined as provided above, except that~~

for the remainder of such term he may receive the fees to which he would have been entitled under law in effect on such date notwithstanding the limitations of ~~§ 14.1-44.2~~, in which case he shall not receive a salary as herein provided.

RATIONALE: Repeal. This special transitional provision is no longer necessary.

~~Article 6~~ Article 1.1

~~Boards of Supervisors~~ Salaries.

§ ~~14.1-45~~ 15.2-1414.1. Each member to be paid annual salary.

Each member of the board of supervisors of each county shall be allowed and paid out of the county levy an annual salary, to be fixed as herein provided, for his services in attending the meetings of the board and in discharging the duties imposed by law upon him.

RATIONALE: Chapter 14 of Title 15.2 deals with governing bodies of localities. Article 6 (Boards of Supervisors), Article 6.1 (City Councilmen) and Article 6.2 (Town Council Members) of Title 14.1 deal with salaries and additional compensation of these governing bodies. Therefore, the three articles from Title 14.1 have been combined into one (Article 1.1 - Salaries) and placed in Chapter 14 of Title 15.2.

§ ~~14.1-46.01~~ 15.2-1414.2. Salaries to be fixed by board; limits; reimbursement in addition to salary.

The annual compensation to be allowed each member of the board of supervisors of a county shall be determined by the board of supervisors of such county but such compensation shall be not be more than a maximum determined in the following manner. Prior to July 1 of the year in which members of the board of supervisors are to be elected or, if the board is elected for staggered terms, of the year in which at least one-half of the members of the board are to be elected, the current board, by a recorded vote of a majority present, shall set a maximum annual compensation which will become effective as of January 1 of the next year. ~~These procedures shall not be applicable to a county to which Article 3 (§ 15.1-674 et seq.) of Chapter 14 of Title 15.1 applies.~~

Until the board is able to set a maximum compensation as provided above, the maximum compensations for the several counties shall be as authorized on July 1, 1981.

Any board of supervisors may fix a higher salary for the chairman, or the vice-chairman, or both, than for the other members of the board without respect to the limits herein set forth.

A member of the board of supervisors of any county may accept in lieu of salary, reimbursement for actual expenses incurred in maintaining an office and secretarial assistance necessary for the proper performance of his duties. Such reimbursement shall be subtracted from the amount of the salary due such official and the remaining sum shall be paid to him at his option; however, such expense shall not exceed the salary. In addition to the salary, members of each governing body may receive the same fringe benefits which are given to county employees generally, and all prior grants of such benefits are validated.

A county may provide a member of its board of supervisors in addition to salary, reimbursement for actual expenses incurred in purchasing, operating, maintaining and using a telephone, including a car telephone or other portable telephone, provided the expenses are attributable directly to the proper performance of the member's official duties.

No increase in the salary of a member of the board of supervisors shall take effect during the incumbent supervisor's term in office; however, this restriction shall not apply to boards of supervisors when the supervisors are elected for staggered terms nor to corrections to the above listed compensation.

RATIONALE: Stricken language is not needed because it is covered by new § 15.2-1414.4 (old § 14.1-47).

§ ~~14.1-46.01~~ 15.2-1414.3. Alternative procedure for establishing salaries of boards of supervisors; limits; fringe benefits.

In lieu of other provisions of law, the boards of supervisors of the several counties may establish annually, by ordinance, and pay in monthly installments each of their members an annual salary pursuant to the following procedure and schedule:

1. On a date determined by the board of supervisors, not earlier than May 1 nor later than June 30 each year, the board, after public hearing pursuant to notice in the manner and form provided in

~~§ 15.1-504~~ §§ 15.2-1426 and 15.2-1427, shall establish by ordinance the salary of its members for the ensuing fiscal year not to exceed the maximums herein set out.

2. Counties within the following population brackets shall be allowed to set salaries for board members not to exceed the following amounts:

Population	Annual Salary
200,000 and over	\$ 15,000
105,000 to 199,999	13,000
80,000 to 104,999	11,000
50,000 to 79,999	9,000
25,000 to 49,999	7,000
15,000 to 24,999	5,500
14,999 and under	4,000

The maximum annual salaries herein provided may be adjusted in any year or years, by ordinance as above provided, by an inflation factor not to exceed five percent.

3. Any board of supervisors may fix, by ordinance as above provided, annually an additional sum to be paid as hereinabove provided to the chairman and vice-chairman of the board not to exceed \$1,800 and \$1,200, respectively, without regard to the maximum salary limits.

4. In addition to and without regard for the salary limits herein set out, any board of supervisors by resolution may grant to its members any or all of the fringe benefits in the manner and form as such benefits are provided for county employees or any of them.

RATIONALE: Corrected Title 15.2 references.

~~§ 14.1-46.1. Additional compensation for member charged with management of county lake.~~

~~In addition to his regular compensation, any member of the board of supervisors of any county who is responsible for the management of any county lake may receive such compensation as may be determined by the board, not to exceed \$1,000.~~

RATIONALE: It is presumed that this section is no longer needed and, therefore, is repealed.

~~§ 14.1-47 15.2-1414.4. Article inapplicable to counties having certain forms of government.~~

~~Nothing in this article shall apply to any county which has adopted or may hereafter adopt any form of county organization and government provided for in §§ 15.1-669 to 15.1-694, both inclusive the county manager plan of government provided for in Chapter 7 (§ 15.2-700 et seq.) of Title 15.2.~~

RATIONALE: Explains in clearer language what the cite reference did in the stricken language.

~~Article 6.1.~~

~~City Councilmen.~~

~~§ 14.1-47.1 15.2-1414.5. Each councilman to be paid annual salary; effect of charter.~~

~~Each member of the council of each city shall be allowed and paid out of the city levy an annual salary in equal monthly installments, to be fixed as herein provided, for his services in attending the meetings of the council and in discharging the duties imposed by law upon him. Any city, however, whose charter imposes no limitation on salaries, may continue to pay its councilmen and mayor pursuant to such charter.~~

RATIONALE: No change.

~~§ 14.1-47.2 15.2-1414.6. Permitted salaries; salary increases; reimbursement for expenses.~~

~~Subject to the exception provided for in § 14.1-47.1 15.2-1414.5, the annual salary of each member of the council of any city shall be set by its members by ordinance notwithstanding any contrary provision of law, general or special. The setting of such salaries by members of council shall include the salary of the mayor or president of the council whether such official is a member of council or not.~~

Cities within the following population brackets shall be allowed to set salaries for mayors, which include presidents of council, and council members not to exceed the following:

Population	Annual Salary
------------	---------------

260,000 and over	
Mayor	\$ 30,000
Council	28,000
175,000 to 259,999	
Mayor	27,000
Council	25,000
75,000 to 174,999	
Mayor	25,000
Council	23,000
35,000 to 74,999	
Mayor	20,000
Council	18,000
20,000 to 34,999	
Mayor	13,000
Council	12,000
15,000 to 19,999	
Mayor	12,000
Council	11,500
14,999 and under	
Mayor	11,500
Council	11,000

No increase in the salary of a member of council shall take effect until July 1 after the next regularly scheduled general election of council members.

Every proposed increase in the salary of a member of council shall be adopted at least four months prior to the date of the next municipal election except in the case of a newly created consolidated city when the proposed increase shall be adopted at least two months prior to the date of its first municipal election.

Any member of council shall be eligible to be reimbursed for any personal expenses incurred by him for official business. However, all claims for reimbursement shall be for reasonable expenses to the extent permitted by law incurred in the conduct of official city business and shall be itemized and documented by stamped paid receipts to the extent feasible.

In addition to salary, each member of the council of any city may be compensated with such benefits as are provided city employees by the city.

RATIONALE: Cite change due to recodification.

Article 6.2.

Town Council Members

~~(Effective December 1, 1997).~~

§ ~~14.1-47.3~~ 15.2-1414.7. (Effective December 1, 1997) Salaries of town council members and mayors.

Notwithstanding any provision of a charter of a town or any other law, a town council may establish the compensation to be paid to council members and the mayor. No increase in salary of a council member or mayor shall take effect during the incumbent council member's or mayor's term in office; however, this restriction shall not apply to councils or mayors when the council members are elected for staggered terms.

RATIONALE: No change.

Chapter 16

Local Constitutional Officers, Courthouses and Supplies

Article 7 6.1.

Compensation Board Generally.

§ ~~14.1-48~~ 15.2-1636.5. Membership; compensation.

The Compensation Board shall consist of the Auditor of Public Accounts, the State Tax

Commissioner, as ex officio members, and one member, who may or may not be an officer or employee of the Commonwealth, who shall be appointed and designated as chairman of the Board by the Governor and who shall hold office at the pleasure of the Governor. The ex officio members of the Board shall not receive any compensation for their services as such members. The member designated by the Governor as chairman shall receive such compensation as shall be fixed by law.

RATIONALE: No substantive changes. This article is being moved to Chapter 15 of Title 15.2 as Article 6.1.

~~§ 14.1-49~~ 15.2-1636.6. Duties of chairman.

The chairman of the Board shall supervise the administrative work of the Board, shall receive, file, collate and classify the reports of the respective officers required to report to the Board, call meetings of the Board whenever any matters arise requiring its consideration or action and have available for and lay before the Board all information necessary for the decision of questions coming before it. He shall conduct all correspondence with the various officers within the jurisdiction of the Board and institute and supervise investigations into the affairs and conduct of all such officers, as and when the Board may direct. He shall preside at all meetings of the Board and cause to be prepared and recorded proper minutes of the action taken at all such meetings, and keep and preserve all papers, books, correspondence and records of the Board.

RATIONALE:

~~§ 14.1-50~~ 15.2-1636.7. Filing requests for salaries.

At the times hereinafter prescribed, every attorney for the Commonwealth, every city and county treasurer and commissioner of the revenue, or any officer, whether elected or appointed, who holds the combined office of county or city treasurer, and commissioner of the revenue, every sheriff in addition to all such officers serving two or more local governments who were elected pursuant to ~~§ 15.1-40.2~~ 15.2-1602 shall file with the chairman of the Board, upon forms prescribed by it, a written request for the expense of his office, stating the amount of salaries requested, and itemizing each item of expense for which allowance is sought, and every such officer shall concurrently file a copy of the request with the governing body of the county or city. Such requests shall be filed on or before February 1 preceding the beginning of the fiscal year for which such requests are made.

The chairman of the Board may, at any time, submit to any officer a written questionnaire concerning the affairs of his office, to ascertain all facts relevant to the determination of the proper allowance to be made with respect to the officer's salaries and the expenses of his office. Every officer shall answer fully and completely all questions so propounded and shall return the questionnaire to the chairman within five days.

The provisions of this section, as amended, shall not affect the powers of any county operating under an optional form of organization and government as provided by ~~Chapters 13 (§ 15.1-582 et seq.) and 14 (§ 15.1-669 et seq.) Chapter 3 (§ 15.1-300 et seq.)~~ of Title ~~15.1~~ 15.2 to determine the budgets of the aforementioned officers.

RATIONALE: No substantive changes. Corrected Title 15.2 cites only.

~~§ 14.1-51~~ 15.2-1636.8. (Effective until July 1, 1999) Duties of Board in fixing salaries, expenses, etc.

All salaries of such officers shall be as hereinafter provided. The expenses and other allowances of all such officers shall be fixed and determined on or before May 1 of each year. The Board shall, no later than the fifteenth day following final adjournment of the Virginia General Assembly in each session, provide to such officers and the local governing body of each city and county he represents, an estimate of expenses and other allowances to be fixed by the Board for the next fiscal year. The Board shall, at meetings duly called by the chairman, carefully consider the questionnaires and written requests filed as required by ~~§ 14.1-50~~ 15.2-1636.7 and consider the work involved in the discharge of the duties of the respective officers, the extent to which such duties are imposed by actions of the local governing body, the amount expended or proposed to be expended by each for clerks, deputies and other assistants, the efficiency with which the affairs of each such office are conducted, and such other matters as the Board may deem pertinent and material, including the number of local governments served if more than one, including the pay and compensation plan of each political subdivision, if it has one, and the locality's plans for adjustments of salaries and expenses for the ensuing fiscal year, as well as the plan of the Commonwealth for adjustment of state salaries and

expenses for such year. The Board shall fix and determine what constitutes a fair and reasonable budget for the participation of the Commonwealth toward the total cost of the office. In its deliberations with respect to any office of an attorney for the Commonwealth, the Board shall not consider whether volunteer assistants are being used in that office. Such budgets, in the aggregate, shall not contemplate state expenditures in excess of the appropriation available to the Board. Prior to holding any such meeting for the fixing of salaries and expenses as provided in this article, ten days' written notice of the time, place and purpose of such meeting shall be given every officer affected and to the mayor or city manager of the city or to the chairman of the governing body and administrator, executive or manager of the county affected.

When the salaries, expenses and other allowances for the several counties and cities have been tentatively fixed by the Board they shall notify the governing body of each city and county of the amounts so fixed. Within thirty days thereafter, but not later, the governing body may file with the Compensation Board any objection it may have to such allowances so fixed. When such objection is filed the Board shall fix a time for a hearing on such objection, of which time the governing body as well as the officer affected shall have at least fifteen days' notice. For the purpose of determining the merits of such protest the governing body may designate two members of such body to serve as additional members of the Compensation Board and such additional members shall each have one vote on the Board.

The chairman of the Board shall record the salary of each such officer, his clerks, assistants and deputies, and the allowances made for other items, and shall promptly notify each such officer of the same with respect to his office.

In fixing, determining and recording the salaries of the full-time deputy sheriffs mentioned in § ~~14.1-73.1-1~~ 15.2-1609.2, the Board shall act solely with reference to establishing an aggregate allowance for personal services to the respective sheriffs for such deputy sheriffs. The annual salary of each such full-time deputy sheriff shall be fixed and determined as provided by §§ ~~14.1-73.1-1, 14.1-73.1-2 and 14.1-73.1-3~~ 15.2-1609.2.

This section shall expire July 1, 1999.

RATIONALE: No substantive changes. Corrected cites have been provided for changes due to this recodification.

§ ~~14.1-51~~ 15.2-1636.8. (Effective July 1, 1999) Duties of Board in fixing salaries, expenses, etc.

All salaries of such officers shall be as hereinafter provided. The expenses and other allowances of all such officers shall be fixed and determined on or before May 1 of each year. The Board shall, no later than the fifteenth day following final adjournment of the Virginia General Assembly in each session, provide to such officers and the local governing body of each city and county he represents, an estimate of expenses and other allowances to be fixed by the Board for the next fiscal year. The Board shall, at meetings duly called by the chairman, carefully consider the questionnaires and written requests filed as required by § ~~14.1-50~~ 15.2-1636.7 and consider the work involved in the discharge of the duties of the respective officers, the extent to which such duties are imposed by actions of the local governing body, the amount expended or proposed to be expended by each for clerks, deputies and other assistants, the efficiency with which the affairs of each such office are conducted, and such other matters as the Board may deem pertinent and material, including the number of local governments served if more than one, including the pay and compensation plan of each political subdivision, if it has one, and the locality's plans for adjustments of salaries and expenses for the ensuing fiscal year, as well as the plan of the Commonwealth for adjustment of state salaries and expenses for such year. The Board shall fix and determine what constitutes a fair and reasonable budget for the participation of the Commonwealth toward the total cost of the office. Such budgets, in the aggregate, shall not contemplate state expenditures in excess of the appropriation available to the Board. Prior to holding any such meeting for the fixing of salaries and expenses as provided in this article, ten days' written notice of the time, place and purpose of such meeting shall be given every officer affected and to the mayor or city manager of the city or to the chairman of the governing body and administrator, executive or manager of the county affected.

When the salaries, expenses and other allowances for the several counties and cities have been tentatively fixed by the Board they shall notify the governing body of each city and county of the amounts so fixed. Within thirty days thereafter, but not later, the governing body may file with the

Compensation Board any objection it may have to such allowances so fixed. When such objection is filed the Board shall fix a time for a hearing on such objection, of which time the governing body as well as the officer affected shall have at least fifteen days' notice. For the purpose of determining the merits of such protest the governing body may designate two members of such body to serve as additional members of the Compensation Board and such additional members shall each have one vote on the Board.

The chairman of the Board shall record the salary of each such officer, his clerks, assistants and deputies, and the allowances made for other items, and shall promptly notify each such officer of the same with respect to his office.

In fixing, determining and recording the salaries of the full-time deputy sheriffs mentioned in § ~~14.1-73.1:1~~ 15.2-1609.2, the Board shall act solely with reference to establishing an aggregate allowance for personal services to the respective sheriffs for such deputy sheriffs. The annual salary of each such full-time deputy sheriff shall be fixed and determined as provided by §§ ~~14.1-73.1:1~~, ~~14.1-73.1:2~~ and ~~14.1-73.1:3~~ 15.2-1609.2.

This section shall be effective on July 1, 1999.

RATIONALE: Same changes have been made as in previous version of this section.

§ ~~14.1-52~~ 15.2-1636.9. Appeal from decision of Board.

A. Any officer whose budget is affected by a decision of the Board under this article made for the fiscal year pursuant to and at the time designated by §§ ~~14.1-50~~ and ~~14.1-51~~ 15.2-1636.7 and 15.2-1636.8 and no other, or any county or city affected thereby, or the Attorney General as representative of the Commonwealth, shall have the right to appeal from any such decision of the Board, within forty-five days from the date of such decision. Such appeal shall lie to the circuit court of the county or city wherein the officer making the appeal resides. The court shall be presided over by three judges of circuit courts remote from that to which the appeal is taken. The three judges shall be chosen by the Chief Justice of the Supreme Court from a panel of fifteen active or retired judges selected to hear such matters by the Supreme Court. Such judges shall remain on the panel for a period of time determined by the Chief Justice of the Supreme Court. No judge may be appointed to hear an appeal involving a jurisdiction in his current or former circuit. Notice of such appeal shall be given within the time above specified by any such officer to the Compensation Board, the county or city affected and the Attorney General. The officer appealing shall, in the appeal, state with specificity what action of the Compensation Board the officer is contesting, the additional services provided to the locality not required by law, and the cost of providing such service. The Compensation Board shall notify the Chief Justice forthwith when all administrative remedies have been exhausted by the appellant and the three-judge court shall be designated upon receipt of the notice by the Chief Justice. The appeal shall be heard within forty-five days from the date such notice is filed by the Board with the Chief Justice. At least fifteen days' notice of the time and place set for the hearing shall be given the officer noting such appeal, the county or city affected, the Compensation Board and the Attorney General. On such appeal all questions involved in said decision shall be heard de novo by the court and its decision on all questions shall be certified by the clerk thereof to the officer affected, to the locality and to the chairman of the Compensation Board.

In making its decision, the ~~Court~~ court shall give consideration to the amount of funds budgeted and expended by the local government for the constitutional officer which exceeds the amount reimbursed by the Compensation Board, the extent to which the officer provides additional services to the locality not required by law and to what extent, if any, the local government should participate in providing the additional funding requested by the constitutional officer. The ~~Court~~ court shall also give consideration both to the officer's ability to perform his statutory duties without additional funding and the ability of the Compensation Board and local government to provide additional funding for the officer's functions. The ~~Court~~ court shall also consider maximum staffing and funding levels set in the general appropriation act and any other statutory provisions which would otherwise prohibit the Compensation Board from granting the officer's request. The burden of proving the necessity of additional funding shall be borne by the officer. After due consideration of Compensation Board and local government statutory authority and the constitutional officer's demonstrated need for additional funding, the ~~Court~~ court shall determine the extent to which the Compensation Board and local government shall share in the additional funding. Should the ~~Court~~ court determine that

additional funding is necessary for the officer to perform his duties, and that it is the responsibility of the Compensation Board to provide all or part of the additional funds, and that the Compensation Board does not have the ability to provide such additional funding, the Compensation Board shall request the necessary additional funding from the General Assembly at its next occurring regular session.

Should the ~~Court~~ court determine that additional funding is necessary for the officer to perform his duties and that it is the responsibility of the local government to provide all or part of the additional funds, and that the local government does not have the ability to provide such additional funding, the chief administrative officer of the local government shall include such request in the budget submission to the local governing body.

From the decision of the ~~Court~~ court there shall be no right of further appeal. The decision of the ~~Court~~ court shall be within the difference between the amounts originally requested by the appealing officer pursuant to § ~~44-50~~ 15.2-1636.7 and the amounts fixed by the Compensation Board for such fiscal year; however, when the appeal is filed by a county or city such decision shall be within the difference between the prior salaries, expenses and other allowances of such officer and the amounts fixed by the Compensation Board for such fiscal year. In the event an appeal is filed by both the officer affected and the county or city affected, such decision shall be within the difference between the amounts originally requested by the appealing officer pursuant to § ~~44-50~~ 15.2-1636.7 and the prior salaries, expenses and other allowances of such officer.

In pursuing the provisions of this section, constitutional officers may use funds designated by the Compensation Board or appropriated by their local governing body to employ independent counsel, provided that funds have been specifically appropriated for such purpose.

B. Notwithstanding the provisions of subsection A above, no appeal of any decision of the Board shall lie to the circuit court from the date of enactment of this subsection B until July 1, 1993, at which time ~~said~~ the circuit court may consider appeals for all fiscal years affected by this moratorium and for subsequent fiscal years.

RATIONALE: Editorial changes and citation corrections only.

§ ~~44-52.04~~ 15.2-1636.10. Appeals from certain decisions affecting expenses, etc., of circuit court clerks.

Any clerk of a circuit court shall have a right to appeal from the annual budget decision of the Board under this article affecting the expenses or allowances of the clerk, or the salary and number of clerk's deputies. In addition, any county or city affected by such decision or the Attorney General as representative of the Commonwealth shall have the right to appeal from the decision. Such appeals shall be taken and heard as provided in § ~~44-52~~ 15.2-1636.9.

RATIONALE: No substantive change. Citation corrections only.

~~Article 8. Article 4.~~

~~Attorneys Attorney~~ for the Commonwealth. ~~Treasurers and Commissioners of Revenue.~~

§ ~~44-53~~ 15.2-1627.1. Salaries of attorneys for the Commonwealth and assistants.

A. The annual salaries of attorneys for the Commonwealth shall be as prescribed in the general appropriation act, except as otherwise provided in § ~~44-62~~ 15.2-1636.12.

In cities and counties having a population of more than 35,000 inhabitants, the Compensation Board, in determining the salary for the assistants to the attorney for the Commonwealth shall consider the provisions of §§ ~~45-150.1 and 45-182.1~~ 15.2-1628 and 15.2-1630 requiring that such attorneys serve on a full-time basis, and shall also consider the amount of the salaries paid to the assistants to the city or county attorney of such city or county.

These same factors shall also be considered in determining the salary for assistants to the attorney for the Commonwealth in cities having a population of more than 17,000 inhabitants, and less than 35,000 inhabitants when the council for such city and the Compensation Board shall concur that the attorney for the Commonwealth and all assistant attorneys for the Commonwealth shall devote full time to their duties, and shall not engage in the private practice of law.

Any city served by a full-time attorney for the Commonwealth on January 1, 1993, under the provisions hereof shall continue to be served by a full-time attorney for the Commonwealth in the event the population of such city shall have fallen below the 17,000 population threshold in the most

recent U.S. census and shall be administered in the same manner as cities with populations in excess of 17,000 but of 35,000 or less. In such jurisdictions, the attorney for the Commonwealth and his assistant attorneys and their successors in office shall be subject to the requirements regarding full-time service and part-time private practice as in effect for such positions on January 1, 1993. No further action by the council of the city or the Compensation Board shall be necessary.

B. Each assistant attorney for the Commonwealth, authorized by law, if his services shall be deemed necessary by the Compensation Board, shall receive an annual salary which shall not exceed ninety percent of the salary received by the attorney for the Commonwealth of his county or city; ~~however,~~ *However,* after January 1, 1980, in cities having a population of more than 35,000 inhabitants, the Compensation Board shall not provide any compensation for any assistant attorney for the Commonwealth when the attorney for the Commonwealth for any such city does not serve on a full-time basis or engages in the practice of law outside of his duties as attorney for the Commonwealth.

RATIONALE: Article 4 of Chapter 16 of Title 15.2 deals with attorneys for the Commonwealth. These sections dealing with salaries and fees of the Commonwealth's attorney are being moved to that article without substantive change.

~~§ 14.1-54~~ 15.2-1627.2. Disposition of fees of attorneys for the Commonwealth.

Every such attorney for the Commonwealth, shall, however, continue to collect all fees which he may be entitled to receive by ~~or under the laws law~~, other than from the Commonwealth and any political subdivision, and shall dispose of the same as in this section provided. One-half of all fees to which attorneys for the Commonwealth are entitled for the performance of official duties or functions, shall be paid by them or such official as may collect the same, not later than the tenth day of the month following their receipt, into the treasuries of their respective counties and cities, and the remaining one-half of all such fees shall be paid by such official as may collect the same into the state treasury, not later than the tenth day of the month following their receipt.

RATIONALE: Editorial changes

~~§ 14.1-55~~ 15.2-1608.1. Salaries of city treasurers.

The annual salaries of city treasurers or any officers, whether elected or appointed, who hold the combined office of city treasurer and commissioner of the revenue, shall be as prescribed in the general appropriation act, except as otherwise prescribed in ~~§ 14.1-62~~ 15.2-1636.12.

Notwithstanding the repeal of §§ 14-8.1, 14-68, 14-68.1, 14-68.2, 14-68.3 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any persons holding office on such date.

RATIONALE: Chapter 16 of Title 15.2 deals with constitutional officers, courthouses and supplies and Article 2 (§ 15.2-1608) of the chapter addresses treasurers. Therefore, this section and the next, which talk about salaries of treasurers, have been added to Article 2 of Chapter 16 of Title 15.2.

~~§ 14.1-56~~ 15.2-1608.2. Salaries of county treasurers.

The annual salaries of county treasurers or any officers, whether elected or appointed, who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of ~~§ 14.1-67~~ 15.2-1636.17, shall be as prescribed in the general appropriation act, except as otherwise provided in ~~§ 14.1-62~~ 15.2-1636.12.

Notwithstanding the repeal of §§ 14-68.1, 14-69, 14-69.1, 14-69.2, 14-69.3 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any person holding office on such date.

RATIONALE: Technical changes.

~~§ 14.1-57~~ 15.2-1636.1. Salaries of city commissioners of the revenue.

The annual salaries of city commissioners of the revenue under this article shall be as prescribed in the general appropriation act, except as otherwise provided in ~~§ 14.1-62~~ 15.2-1636.12.

Notwithstanding the repeal of §§ 14-8.1, 14-70, 14-70.1, 14-70.2 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any person holding office on such date.

RATIONALE: Chapter 16 of Title 15.2 also contains an article for commissioners of the revenue (Article 6, § 15.2-1636) to which this and the next section, both dealing with salaries of

such commissioners, have been added.

~~§ 14.1-58~~ 15.2-1636.2. Salaries of county commissioners of the revenue.

The annual salaries of county commissioners of the revenue under this article shall be as prescribed in the general appropriation act, except as otherwise provided in ~~§ 14.1-62~~ 15.2-1636.12.

Notwithstanding the repeal of §§ 14-8.1, 14-71, 14-71.1, 14-71.2, 14-71.3 and 14-75, effective July 1, 1964, the prior authority of such sections is continued in effect as to any person holding office on such date.

RATIONALE: Technical change.

~~§ 14.1-59~~ 15.2-1636.3. Real estate transfer and license fees in counties.

The clerks of the courts of record of the counties shall continue to collect the fees provided for commissioners of the revenue for making real estate transfer fees and shall pay ninety per centum thereof into the treasuries of their respective counties not later than the tenth day of the month following their receipt. The treasurers of the several counties shall hereafter collect the license fees and any other fees of the county commissioners of the revenue and shall pay the county fees into the county treasury and the state fees into the state treasury.

RATIONALE: The first sentence of this section is being deleted. The clerks are collecting this fee under § 58.1-3315.

~~§ 14.1-60~~ 15.2-1636.4. Real estate transfer and license fees in cities.

The clerks of the courts of record of the cities shall collect fees payable for making real estate transfers and pay ninety per centum thereof into the treasuries of their respective cities not later than the tenth day of the month following their receipt. Such officers as may be authorized by law to collect city licenses shall collect all such license fees and apply them to the credit of their respective city treasuries. The treasurers of the several cities shall hereafter collect all state license fees and apply them to the credit of the Commonwealth.

RATIONALE: The first sentence of this section is being deleted. The clerks are collecting this fee under § 58.1-3315.

~~§ 14.1-61~~ 15.2-1636.11. Determination of population.

For the purpose of fixing salaries specified in §§ ~~14.1-53, 14.1-55, 14.1-56, 14.1-57, 14.1-58 and 14.1-73~~ 15.2-1608.1, 15.2-1608.2, 15.2-1609.2, 15.2-1627.1, 15.2-1636.1, and 15.2-1636.2, the population of each county and city shall be according to the last preceding United States census. If the area of any city has, since the last preceding United States census, been increased by annexation, the population of such city, for such purposes, shall be the population thereof as shown by the last preceding United States census, plus the increase resulting from such annexation. Whenever it is ~~made to appear~~ appears to the satisfaction of the Compensation Board that the population of any county or city has, since the last preceding United States census, increased so as to entitle such county or city to be placed in a higher salary bracket, such county or city shall ~~then~~ be considered as being within such higher salary brackets.

RATIONALE: Editorial changes and citation corrections only.

~~§ 14.1-62~~ 15.2-1636.12. Increase in salaries in certain cases.

Any officer whose salary in the year ending June 30, 1980, included an increase under deleted provisions of ~~this section~~ former § 14.1-62 shall receive the same amount of such increase for the terms in which he continues in office.

RATIONALE: No substantive change.

~~§ 14.1-63~~ 15.2-1636.13. Time and manner of payment.

A. The salaries fixed in accordance with this ~~and Article 7 (§ 14.1-48 et seq.)~~ article shall be paid in equal monthly installments. The expenses and other allowances of office within the limits fixed by the Board shall be paid monthly on the submission of satisfactory evidence that such expenses and other allowances were actually incurred. All counties and cities shall pay the entire amount of such salaries, expenses and other allowances and, upon notification to the Board, the Commonwealth shall reimburse all such counties and cities for the Commonwealth's proportionate share of such salaries, compensation, benefits under § 51.1-137, and other expense allowances.

B. In the event a county or city shall fail to make timely payment of the salaries, expenses or other allowances fixed in accordance with the provisions of law applicable thereto, the Board shall withhold all reimbursements for the office or offices affected thereby until such salaries, expenses or

other allowances have been paid, unless such county or city has appealed pursuant to ~~§ 14.1-51 or § 14.1-52~~ 15.2-1636.8 or § 15.2-1636.9.

C. The Board may provide advance payments on a monthly pro rata basis to any county or city and adjust subsequent monthly advances based on actual expenditures incurred in the preceding month. Should the Board elect to make such advance payments to any locality, then it shall make such advance payments to all localities which request the same.

RATIONALE: No substantive change.

~~§ 14.1-64~~ 15.2-1636.14. Proportion borne by Commonwealth and by localities.

A. The salaries, expenses and other allowances of attorneys for the Commonwealth in counties and cities as fixed and determined by the Compensation Board shall be paid by the Commonwealth after July 1, 1980.

B. The salaries, expenses and other allowances of treasurers and commissioners, or any officers, whether elected or appointed, who hold the combined office of county or city treasurer and commissioner of the revenue in the counties and cities shall be paid in the proportion of one-half by the respective counties and cities and one-half by the Commonwealth, except as hereafter in this section provided.

C. The salary, expenses and other allowances of any city treasurer who neither collects nor disburses local taxes or revenues shall be paid entirely by the Commonwealth and the salary, expenses and other allowances of any city treasurer who disburses local revenues but does not collect the same shall be paid in the proportion of one-third by the city and two-thirds by the Commonwealth.

D. In no event shall the amount paid by each city and county as its share of the salary of its respective treasurer and commissioner in any fiscal year exceed the actual dollar amount paid by such city and county for such salaries during the fiscal year ending June 30, 1980.

E. In the case of each county and city treasurer except a city treasurer who neither collects nor disburses local taxes or revenues, and in the case of each county and city commissioner of the revenue, the cost of such office furniture, office equipment and office appliances as may be specifically authorized by and included in the then current expense allowance made to such officer under the provisions of ~~Articles 7 (§ 14.1-48 et seq.) and 8 (§ 14.1-53 et seq.)~~ of this ~~chapter~~ article, shall be paid in the proportion of two-thirds by the county or city and one-third by the Commonwealth. The prices paid for such office furniture, office equipment and office appliances shall not be in excess of the prices available to the Commonwealth if such purchases were made through the Department of General Services' Division of Purchases and Supply. The words "office furniture, office equipment and office appliances," as used in this paragraph, mean such items of this character as have a useful life of more than one year; and the word "cost," as used in this paragraph, may include a rental cost, in the discretion of the Compensation Board, in any case in which, in the opinion of the Board, such rental cost, in whole or in part, is properly includible in the expense allowance.

F. If any county or city commissioner of the revenue or county or city treasurer uses any forms, sheets or books of any kind for the assessment or collection of state or local taxes or levies, or in connection with the assessment or collection of such taxes or levies, in lieu of the standard forms, sheets or books furnished by the Commonwealth, no part of the cost of such forms, sheets or books shall be paid by the Commonwealth, but their entire cost shall be paid out of the treasury of the county or city whose governing body required, authorized or consented to their use. This ~~paragraph~~ subsection shall not be construed as enlarging the existing powers of local governing bodies to require, authorize or consent to the use of such forms, sheets or books.

G. The cost of all forms, sheets and books of all kinds used for the assessment or collection of local license and local excise taxes or used in connection with the assessment or collection of local license and local excise taxes, shall be paid entirely out of the local treasury, including the cost of any tags, stamps, stickers, or other devices intended to evidence the payment of any such local license or local excise taxes.

H. The cost of all forms, sheets and books of all kinds used in the ascertainment, billing or collection of charges for utility or other special services rendered by a county or city, or by any district or agency thereof shall be paid entirely by the locality, although it may be the duty of the

treasurer or the commissioner of the revenue to ascertain or collect such charges under applicable provisions of law.

The governing body of each county and city shall provide suitable office space for the treasurer and commissioner of the revenue, together with the necessary heat, light, water and janitorial service. The entire cost of providing such office space, heat, light, water and janitorial service shall be paid out of the local treasury.

The provisions of this section, as amended, shall not affect any county operating under an optional form of organization and government as provided by ~~Chapters 13 (§ 15.1-582 et seq.) and 14 (§ 15.1-669 et seq.) of Title 15.1 Chapter 3 (§ 15.2-300 et seq.) of Title 15.2.~~

RATIONALE: No substantive change. Editorial amendments and citation corrections, due to this recodification, have been made.

~~§ 14.1-65~~ 15.2-1636.15. Manner of payment of certain items contained in budgets of county and city attorneys for the Commonwealth, treasurers and commissioners of the revenue.

A. Whenever a county or city attorney for the Commonwealth, treasurer or commissioner of the revenue purchases office furniture, office equipment, office appliances, tax tickets for state and local taxes collectible by county and city treasurers, stationery, office supplies, postage, data processing services, printing, advertising, telephone or telegraph service, or repairs to office furniture and equipment in conformity with and within the limits of allowances duly made and contained in the then current budget of any such officer under the provisions of ~~Articles 7 (§ 14.1-48 et seq.) and 8 (§ 14.1-53 et seq.) of this chapter article,~~ the invoices therefor, after examination as to their correctness, shall be paid by the county or city directly to the vendors, and the Commonwealth shall monthly pay the county or city the state's proportionate part of the cost of such items on submission by such officer to the Compensation Board of duplicate invoices and such other information or evidence as the Compensation Board may deem necessary. This section shall also apply to the payment of the premiums on the official bonds of such officers, their deputies and employees, and to the premiums on burglary and other insurance, except the premium on the bond of a treasurer the payment of which is governed by other provisions of law.

B. This section shall not apply to any city treasurer whose city is not required to pay any part of the cost of such items, in which event the Board shall pay the vendor upon receipt of the required invoices and other information.

RATIONALE: No substantive change. Citation corrections, due to this recodification, have been made.

~~§ 14.1-66~~ 15.2-1636.16. Appropriations chargeable with Commonwealth's proportion of salaries, etc.

The Commonwealth's proportion of the salaries, expenses and other allowances of the treasurers, commissioners of the revenue, attorneys for the Commonwealth, and sheriffs ~~under this title~~ shall be paid out of the appropriations made for those purposes in the general appropriation act.

The budgets fixed by the Compensation Board may thereafter be amended by the Compensation Board upon the request of the officer or local governing body or when changed circumstances so require. No budget shall be increased if any portion of the increase is payable from local funds without the concurrence of the local governing body.

All provisions of charters of cities and towns inconsistent with the provisions of this article are hereby repealed to the extent of such inconsistency.

RATIONALE: Editorial change.

~~§ 14.1-67~~ 15.2-1636.17. Payments to counties which do not have certain officers.

The Compensation Board shall, ~~in the manner hereinbefore provided,~~ determine the compensation and expense allowances for the attorney for the Commonwealth, the treasurer and the commissioner of the revenue for each county which adopts any form of county organization and government provided for in ~~§§ 15.1-582 to 15.1-668~~ 15.2-500 et seq. or ~~§§ 15.1-722 to 15.1-794~~ 15.2-800 et seq., ~~both inclusive,~~ in the same manner as if such county had not adopted such form of county organization and government and had continued to have all of such officers; ~~and thereafter.~~ *Thereafter,* the portion of such compensation and such expense allowances payable by the Commonwealth shall be paid into the general fund of the treasury of the county. The actual compensation and expense allowances to be paid the attorney for the Commonwealth, the treasurer

and the commissioner of the revenue, or the officers, agents or employees performing the duties and exercising the powers thereof, of any such county shall be fixed and determined as provided in said ~~§§ 15.1-582 to 15.1-668~~ 15.2-500 *et seq.* or ~~§§ 15.1-722 to 15.1-791~~ 15.2-800 *et seq.*, both inclusive, without regard to the limits provided for in this article.

RATIONALE: Editorial changes and citation corrections only.

~~Article 9.~~ Article 3.

~~Sheriffs and Sergeants.~~

§ ~~14.1-68~~ 15.2-1609.2. Sheriffs' ~~to be paid~~ salaries; *salaries of certain full-time deputies; maximum limits.*

A. The sheriffs of the counties and the cities of the Commonwealth and their full-time deputies shall be paid salaries for their services and allowances for the necessary expenses incurred in the performance of their duties, to be determined as hereinafter provided.

RATIONALE: Article 3 of Chapter 16 of Title 15.2 deals with sheriffs. The provisions dealing with sheriffs' salaries and fees are being moved to that article. Sections 14.1-68, 14.1-73, 14.1-73.1:1, 14.1-73.1:2 and 14.1-73.1:3 are being consolidated into one new section dealing with salary.

§ ~~14.1-69~~ 15.2-1609.3. Fees and mileage allowances.

A. Every sheriff, and every sheriff's deputy, shall, ~~however, continue to~~ collect all fees and mileage allowances provided by law for the services of such officer, other than ~~such as those he would have been~~ is entitled to receive from the Commonwealth or from the county or city for which he is elected or appointed and fees and mileage allowances provided for services in connection with the prosecution of any criminal matter in the circuit courts. *However, no fee shall be charged for serving any public orders, for summoning or impaneling grand juries, or for services in elections except as provided under Title 24.1.*

B. ~~Such~~ All fees and mileage allowances accruing in connection with any civil or criminal matter shall be collected by the clerk of the court in which the case is heard and paid by him into the treasury of the county or city in which the case is heard. All fees collected by or for every sheriff and deputy shall be paid into the treasury of the county or city for which he is elected or appointed, on or before the tenth day of the month next succeeding that in which the same are collected. The treasurer of each county and city shall credit such amounts in excess of such fees received in fiscal year 1994 to the account of the Commonwealth to be remitted to the State Treasurer along with other funds due to the Commonwealth.

C. *In any case in which a sheriff makes a levy and advertises property for sale and by reason of a settlement between the parties to the claim or suit he is not permitted to sell under the levy, the sheriff is not entitle to any commissions, but in addition to his fees for making the levy and return, he shall be entitled to recover from the party for whom the services were performed the expenses incurred for advertisement of the proposed sale of the property.*

D. *When, after distraining or levying on tangible property the officer neither sells nor receives payment and either takes no forthcoming bond or takes one which is not forfeited, he shall, if not in default, have in addition to the sixty cents for a bond, if one was taken, a fee of twelve dollars. If the fee is more than one-half of what his commission would have amounted to if he had received payment, he shall, whether a bond was taken or not, receive a fee of at least one dollar and so much more as is necessary to equal the one-half.*

RATIONALE: The provisions of former §§ 14.1-89 (see subsection A), 14.1-94 (see subsection C) and 14.1-95 (see subsection D) are added to this section dealing with fees and commission not to be charged by sheriffs.

§ ~~14.1-70~~ 15.2-1609.1. Number of deputies.

Except as provided in § ~~15.1-48~~ 15.2-1603 of the Code of Virginia, the respective number of full-time deputies appointed by the sheriff of a county or city shall be fixed by the Compensation Board after receiving such recommendation of the board of supervisors of the county or the council of the city, as the case may be, as the board of supervisors or city council may desire to make. Such recommendation, if any, shall be made to the Compensation Board on or before April 1 of each year. In any county without a police force, upon the request of the board of supervisors of such county, the

number of such law-enforcement deputies shall be fixed at not less than one such deputy for each 2,000 population in such county excluding the population served by state educational institution police departments if the sheriff's department does not provide the majority of the law-enforcement activities to such population according to uniform crime reports compiled by the Department of State Police. The Compensation Board shall also consider any agreement the sheriff may have pursuant to ~~§ 15.1-131.3~~ 15.2-1726 and any obligation he may have pursuant to this section to provide law enforcement for towns in fixing the number of deputies. The governing body of any county or city may employ a greater number of law-enforcement deputies than fixed by the Compensation Board, provided that the county or city shall pay the total compensation and all employer costs for such additional deputies.

RATIONALE: Citation corrections only.

~~§ 14.1-73~~ 15.2-1609.2 [Continued]. ~~Salaries of sheriffs.~~

B. The annual salaries of the sheriffs of the counties and cities of the Commonwealth shall be as prescribed in the general appropriation act, except as otherwise provided in ~~§ 14.1-74~~ subsection C.

RATIONALE: Citation correction due to consolidation with other preceding and following sections.

~~§ 14.1-73.1-1~~ 15.2-1609.2 [Continued]. ~~Salaries of certain full-time deputy sheriffs determined by sheriff.~~

D. The annual salary of each full-time deputy sheriff who is primarily a courtroom security officer, a correctional officer or a law-enforcement officer shall be determined by the sheriff in whose service he is employed and shall be reported to the Compensation Board by the sheriff at the time he files his report for the allowance of the expenses of his office as provided in ~~§ 14.1-50~~ 15.2-1636.7 and at any time thereafter when the sheriff effects a change in the salary or employs a new such deputy sheriff. Such salaries as determined by the respective sheriff shall conform to the requirements set forth in ~~§ 14.1-73.1-2~~ subsection E and shall not in the aggregate exceed the aggregate allowance by the Compensation Board for personal services to the respective sheriffs for such deputy sheriffs.

However, notwithstanding any contrary provisions of this section and of ~~§§ 14.1-51 and 14.1-73.1-2~~ 15.2-1636.8, the salary of any full-time deputy sheriff who, in addition to having primary duties related to courtroom security, corrections or law enforcement, also supervises other deputy sheriffs, or who is designated an investigator by the sheriff in whose services he is employed, shall be fixed and determined by the Compensation Board. Nothing in ~~§ 14.1-73.1-1~~ this section shall prohibit the Compensation Board from setting salary levels of civil process officers in localities having a population of more than one hundred thousand at a level equal to salary levels of deputy sheriffs who are primarily courtroom security, correctional, or law-enforcement officers.

RATIONALE: No substantive change. Citations corrected as appropriate.

~~§ 14.1-73.1-2~~ 15.2-1609.2 [Continued]. ~~Requirements in the determination of salaries of certain full-time deputy sheriffs.~~

E. The salary range of any full-time deputy sheriff who is primarily a courtroom security officer, a correctional officer or a law-enforcement officer and, if employed on or after July 1, 1974, also has a high school education or the equivalent thereof, shall be no less than that of a correctional officer within the classification and pay system for state employees and shall be administered in accordance with regulations for that system administered by the Department of Personnel and Training. The Governor shall provide the Compensation Board the salary range and regulations within that system as of July 1, 1980, and as of any subsequent date on which changes in the salary ranges and regulations may be adopted.

RATIONALE: No change.

~~§ 14.1-73.1-3~~ 15.2-1609.2 [Continued]. ~~Maximum limits of salaries of deputy sheriffs.~~

F. The salary of any deputy sheriff shall not exceed ninety ~~per centum~~ percent of the salary of the sheriff by whom he is employed.

RATIONALE: Editorial changes.

~~§ 14.1-73.2~~ 15.2-1612.1. Deputy sheriffs to complete course of instruction established by Department of Criminal Justice Services.

Any full-time deputy sheriff not employed on July 1, 1971, shall successfully complete a course of instruction established by the Department of Criminal Justice Services as provided in paragraph 2 (i)

of § 9-170.

RATIONALE: No change.

§ ~~14.1-74~~ 15.2-1609.2 [Continued]. ~~Increase of salaries in certain counties and cities.~~

C. Any sheriff whose salary in the year ending June 30, 1980, included an increase under deleted provisions of ~~this section former § 14.1-74~~ shall receive the same amount of such increase for the terms in which he continues in office.

RATIONALE: Editorial changes.

§ ~~14.1-75~~ 15.2-1609.4. Records of expenses of sheriffs and full-time deputies.

Each sheriff and each full-time deputy shall keep a record of all expenses incurred by him including expenses for traveling, telephone, telegraph, clerical assistance, office facilities and supplies, bond premiums, cook hire, maintenance and repair cost of automobile police radio equipment including radio transmitter system and all accessories thereto, and any other expense incident to his office. Each full-time deputy shall file a monthly report with his principal showing in detail the expenses incurred by him. Each sheriff shall also include in the report the mileage which was incurred for himself and each full-time deputy as a result of patrolling performed at the direction of the sheriff, the mileage to and from the residence of the sheriff or full-time deputy and the place where the sheriff or full-time deputy starts his duty and the mileage shall be an allowable expense of the sheriff's department.

RATIONALE: No change.

§ ~~14.1-76~~ 15.2-1609.5. Submission of statement of expenses.

Each sheriff shall submit a monthly statement of all traveling expenses incurred by him, and by each of his full-time deputies, to his county or city. The county or city shall pay the expenses to the person or vendor entitled thereto and submit same to the Compensation Board for reimbursement if within the sheriff's annual budget approved by the Board. Payments due counties and cities under this section shall be paid to the county or city within ninety days following the receipt by the Compensation Board of a completed statement of monthly expenses.

RATIONALE: No change.

§ ~~14.1-77~~ 15.2-1609.6. Agreements regarding traveling expenses.

Notwithstanding the provisions of § ~~14.1-76~~ 15.2-1609.5, the governing body of any county or city may, with the approval of the Compensation Board, enter into such agreement with the sheriff of such county or city with respect to the traveling expenses, including the use of privately owned vehicles, of such sheriff and his deputies as the governing body may deem proper. ~~And with~~ *With* the consent of the Compensation Board, in any county having a regular police force authorized by law and in which the jail of another county or city has been adopted as the jail of such county, the police officers, *in place of the sheriff*, who transport any persons charged with violation of a state law under order of ~~the trial justice of such county or the judge of the circuit court of such county, in place of the sheriff,~~ to the jail so adopted ~~as the jail of such county~~, shall receive the same mileage as the sheriff ~~of such county~~ would have received had he ~~so~~ transported such persons. Any such police officer ~~so~~ transporting any such person shall make claim for mileage on the same forms the sheriff uses for such claims and in the same manner. When any such mileage is collected by any ~~such~~ police officer, he shall pay the same into the county treasury and the payment of such mileage shall be made in the manner provided for the payment of mileage to sheriffs.

RATIONALE: No substantive change. Amendments are an attempt to clarify. The term "trial justice" has been stricken since that office does not exist.

§ ~~14.1-78~~ 15.2-1609.9. Compensation of part-time deputies.

The part-time deputies of sheriffs shall not receive fixed salaries, but shall be entitled to receive reasonable compensation for their services and allowances for their expenses, to be determined and paid as hereinafter provided. Each such part-time deputy shall keep a record of all services performed by him as such, which shall be reported to the sheriff whose deputy he is. The sheriff shall likewise keep a record of all services performed by each part-time deputy. Each sheriff shall file a monthly report with the board of supervisors or other governing body of the county or city council, as the case may be, on or before the fifth day of the month next succeeding that in which such services are performed, showing in detail all services and hours of service rendered by part-time deputies. The board of supervisors or other governing body or the city council shall recommend to the

Compensation Board what in its judgment is a fair compensation to pay each individual part-time deputy of a sheriff on the basis of such reports, except that the limit for compensation per hour of service shall not exceed the hourly equivalent of the minimum annual salary paid a full-time deputy sheriff who performs like services in the same county or city; ~~in~~. In addition, mileage and other expenses for rendering the services shall be paid. If in the judgment of the ~~board of supervisors or other~~ governing body ~~or the city council~~ such limit would work a hardship on a particular part-time deputy sheriff, each sum may be increased with the written approval of the judge of the circuit court of the county or city for which such officer is appointed.

RATIONALE: Editorial changes.

§ ~~14.1-79~~ 15.2-1609.7. Salaries and expense allowances to be paid by Commonwealth.

The Commonwealth shall pay the salaries and expense allowances of such sheriffs and their full-time deputies, and of the compensation and expense allowances of their part-time deputies, fixed as ~~hereinbefore~~ provided except that beginning July 1, 1982, such payments to any eligible county or newly formed city under the provisions of ~~Title 15.1, Chapter 21.1~~ 39 (§ ~~15.1-977.1~~ 15.2-3900 et seq.) or Chapter ~~26~~ 35 (§ ~~15.1-1071~~ 15.2-3500 et seq.) of this title, which elects to receive state law-enforcement assistance in accordance with the terms of Article ~~10~~ 2.2 (§ ~~14.1-84.1~~ 9-183.13 et seq.) of ~~this chapter~~ Chapter 27 of Title 9 shall be reduced by an amount equal to the salaries and expense allowances of its law-enforcement deputy sheriffs or the amount of state assistance to be received by the county or newly formed city under the provisions of ~~Title 15.1, Chapter 21.1~~ (~~§ 15.1-977.1 et seq.~~) Chapter 39 (§ 15.2-3900 et seq.) or Chapter ~~26~~ 35 (§ ~~15.1-1071~~ 15.2-3500 et seq.) of this title, pursuant to Article ~~10~~ (§ ~~14.1-84.1 et seq.~~) of ~~this chapter~~ 2.2 (§ 9-183.13 et seq.) of Chapter 27 of Title 9, whichever is the lesser. Such salaries shall be paid in equal monthly installments and the expense allowances shall be paid monthly when the amount thereof is established as hereinabove provided, except that the Board may provide advance payments on a monthly pro rata basis to any county or city and adjust subsequent monthly advances based on actual expenditures incurred in the preceding month. Notwithstanding the provisions of this section, the General Assembly, through the general appropriations act, may allow any locality receiving a 100 percent apportionment of law-enforcement assistance to continue to receive such full apportionments.

RATIONALE: Editorial changes and citation corrections only.

§ ~~14.1-80~~ 15.2-1615.1. Manner of payment of certain items in budgets of sheriffs.

A. Whenever a sheriff purchases office furniture, office equipment, stationery, office supplies, telephone or telegraph service, postage, or repairs to office furniture and equipment in conformity and within the limits of allowances duly made and contained in the then current budget of any such ~~office~~ sheriff under the provisions of this chapter, the invoices therefor, after examination as to their correctness, shall be paid by the county or city directly to the vendors, and the Commonwealth shall monthly reimburse the county or city the cost of such items on submission by such ~~office~~ sheriff to the Compensation Board of duplicate invoices and such other information or evidence as the Compensation Board may deem necessary. This ~~action~~ procedure shall also apply to the payment of the premiums on the official bonds of such ~~officers~~ sheriffs, their deputies and employees, and to the premiums on burglary and other insurance. This ~~action~~ shall further, and apply for any physical examinations required pursuant to § ~~15.1-131~~ § 15.2-1705 for a sheriff and each of his full-time deputies at a rate specified by the Compensation Board.

B. The Compensation Board may allow as an expense allowance to the sheriff of any county or city the cost of operation, maintenance and repair of a closed circuit television system and all accessories thereto or of leasing electronic security equipment or making repairs to the same, which system and equipment are installed in any jail under his control for the surveillance of prisoners.

RATIONALE: Clarifying and editorial amendments.

§ ~~14.1-82~~ 15.2-1609.8. Payments to counties having certain optional forms of organization and government.

The Compensation Board shall, in the manner ~~hereinbefore~~ provided by law, determine the compensation and expense allowances for the sheriff, and his deputies, of each county which has adopted or ~~shall~~ hereafter ~~adopt~~ adopts any form of county organization and government provided for in ~~§§ 15.1-582 to 15.1-668, Chapter 5 (§ 15.2-500 et seq.), Chapter 6 (§ 15.2-600 et seq.) or~~

county shall continue such form of county organization and government in effect in such county, as if such county had not adopted any such form of government, but the salaries and expense allowances, ~~determined as aforesaid and payable by the Commonwealth,~~ shall be paid into the general fund of the treasury of such county. The actual compensation and expense allowance to be paid the sheriff, and his deputies, of any such county shall be fixed as provided in the form of county organization and government adopted by such county, without regard to the limits provided for in this article, and shall be paid by such county.

The provisions of this section shall also be applicable to any county which adopts and has in effect in such county any other optional form of county organization and government which may be provided by law, if such form of county organization and government shall provide that the entire compensation of the sheriff of such county shall be fixed by authorities of the county and paid by the county.

RATIONALE: Editorial changes and citation corrections.

§ ~~14.1-83~~ 15.2-1614.1. Expense of boarding and lodging jurors.

Whenever it is necessary for a sheriff or sergeant to pay for the board and lodging of juries, he shall obtain a receipt for the funds so spent and on or before the fifth day of the month next succeeding he shall present such bill to the board of supervisors or other governing body of the county or to the city council, as the case may be, which shall, if it is found correct, reimburse the sheriff or sergeant for the amount so spent by him for such purpose. The county or city shall be reimbursed by the Commonwealth for all sums so expended on account of any criminal trial involving an offense against the Commonwealth.

RATIONALE: No change.

Chapter 27

Department of Criminal Justice Services; Board

Article ~~40~~ 2.2.

Law-Enforcement Expenditures.

§ ~~14.1-84.1~~ 9-183.13. Local governments to receive state funds for law enforcement.

The Department of Treasury shall disburse funds to cities, towns and counties, to aid in the law-enforcement expenditures of those local governments, pursuant to the terms of this article.

RATIONALE: No change.

§ ~~14.1-84.2~~ 9-183.14. Definitions.

For the purposes of this article, the following definitions shall be applicable:

A. "The Department" means the Department of Criminal Justice Services.

B. "Base year" means the most recent fiscal year for which comparable data are available for: (i) population estimates by the Center for Public Service or the United States Bureau of the Census, adjusted for annexation as determined by the Department, (ii) actual state expenditures for salaries and expenses of sheriffs as reported by the Compensation Board, (iii) number of persons eligible for ~~Aid to Families With Dependent Children~~ *Temporary Assistance to Needy Families* as defined in § ~~63.1-87~~ 63.1-86.1, (iv) number of persons in foster care, as defined in § 63.1-195, and (v) the number of persons receiving maintenance payments in a general relief program as defined in § 63.1-87.

C. "Eligible county" means any county which operates a police department.

D. "Average crime rate" for a city or eligible county means the annual average number of violent and property index crimes per 100,000 persons, as reported by the Superintendent of State Police, for the base year and the fiscal year immediately preceding, and the fiscal year immediately following, the base year. If the data are not available for the fiscal year immediately following the base year, the average shall be based on the base year and the two immediately preceding fiscal years.

E. "Population served by sheriffs only" means the total base year population of those counties without a police department, less the latest available estimate from the United States Bureau of the Census of the total population of towns, or portions of towns, having police departments, located in such counties.

F. "Population served by police departments" means the total base year population of the Commonwealth less the population served by sheriffs only.

G. "State aid to sheriff-only localities" means the estimated total amount for salaries and expenses

to be paid by the Commonwealth, pursuant to Article 9 (~~§ 14.1-68 et seq.~~) 3 (§ 15.2-1609.2 et seq.) of ~~this chapter~~ Chapter 16 of Title 15.2, to sheriffs' offices in those counties without a police department, based on the actual percentage of total state expenditures in the base year distributed to those counties without police departments.

H. "State aid to localities with police" means that amount which bears the same relationship to the population served by police departments as state aid to sheriff-only localities bears to the population served by sheriffs only.

I. "Distribution formula" means that linear equation derived biennially by the Department, using standard statistical procedures, which best predicts average crime rates in all cities and eligible counties in the Commonwealth on the basis of the following factors in their simplest form:

1. The total base year number of (i) persons enrolled in ~~Aid to Families With Dependent Children~~ *Temporary Assistance to Needy Families*, (ii) persons in foster care, and (iii) persons receiving maintenance payments in a general relief program, per 100,000 base year population; and

2. The local population density, based on the base year population estimates of the Center for Public Service, adjusted for annexation as determined by the Department, and the land area in square miles of the city or eligible county as reported by the United States Census Bureau, adjusted for annexation as determined by the Department.

J. "Potential crime rate" means the number of crimes per 100,000 persons in the base year population for each city or eligible county, as derived from the distribution formula.

K. "Adjusted crime index" means the potential crime rate for a locality multiplied by the base year population of the locality as estimated by the Center for Public Service.

L. "Police department" means that organization established by the local governing body of a county, city, or town, by ordinance, which is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances. Such department shall have a chief of police, which in the case of counties may be the sheriff, and such officers, privates, and other personnel as may be provided for in the ordinance, one sworn member of which shall be a full-time employee. All law-enforcement officers serving as members of such police department, whether full-time or part-time, and whether permanently or temporarily employed, shall meet the minimum training standards established pursuant to §§ 9-170 and 9-180, unless such personnel are exempt from the minimum training standards as provided in §§ 9-173 and 9-179. Any police department established subsequent to July 1, 1981, shall also have, at a minimum, one officer on duty at all times for the purposes set forth above. However, notwithstanding any contrary provision of this definition, any locality receiving funds under this article during the 1980-82 biennium shall be considered to have a valid police department eligible for funds as long as such police department continues in operation.

Provided further, notwithstanding any contrary provision of this definition, any town receiving funds under this article during the 1986-1988 biennium shall be considered to have a valid police department eligible for funds even though police services for such town may thereafter be provided by the sheriff of the county in which the town is located by agreement made pursuant to § ~~15.1-131.3~~ 15.2-1726. Eligibility for funds under this provision shall last as long as such agreement remains in effect. Police services for the town furnished by the sheriff shall be equal to or greater than the police services last furnished by the town's police department.

RATIONALE: No substantive change. The amendments reflect changes in federal programs under the Welfare Reform Act.

§ ~~14.1-84.3~~ 9-183.15. Calculation of adjusted crime index; use.

By January 1 of each even-numbered year, the Department, using the relevant base year data, shall calculate the adjusted crime index for each city and each eligible county. Such calculation shall be used for the succeeding fiscal biennium adjusted for annexation as determined by the Department.

RATIONALE: No change.

§ ~~14.1-84.4~~ 9-183.16. Total amount and method of distribution of funds to counties and cities.

A. The total amount of funds to be distributed as determined by the Department shall be equal to the amount of state aid to localities with police, as defined in § ~~14.1-84.2~~ 9-183.14, minus (i) the salaries and expenses of sheriffs' offices in such cities and counties as estimated pursuant to Article 9 (~~§ 14.1-68 et seq.~~) of Title ~~14.1~~ 3 (§ 15.2-1609.2 et seq.) of Chapter 16 of Title 15.2, and (ii) five

percent of the remainder, which shall be placed in a discretionary fund to be administered as specified in § ~~14.1-84.6~~; ~~however~~ 9-183.18. *However*, beginning July 1, 1982, the percentage change in the total amount of funds to be distributed for any fiscal year from the preceding fiscal year shall be equal to the anticipated percentage change in total general fund revenue collections for the same time period as stated in the appropriations act.

B. Each city and eligible county shall receive a percentage of such total amount to be distributed equal to the percentage of the total adjusted crime index attributable to such city or county. Payments to the cities and eligible counties shall be made in equal quarterly installments by the State Treasurer on warrants issued by the Comptroller. Notwithstanding the foregoing provisions, the General Assembly, through the general appropriations act, may appropriate specific dollar amounts to provide financial assistance to localities with police departments.

RATIONALE: Editorial changes and citation corrections only.

§ ~~14.1-84.5~~ 9-183.17. Distribution of funds to towns.

A. Towns located in eligible counties and which have police departments shall receive a percentage of the funds distributed to the county in accordance with § ~~14.1-84.4~~ 9-183.16, such percentage to be equal to the ratio of the town's population as determined by the Department to the total population of the county.

B. Towns located in noneligible counties shall be assigned an adjusted crime index based on their population and the average of the three lowest predicted crime rates for cities. Such towns shall receive funds based on such adjusted crime index in the same manner as cities and eligible counties as provided in § ~~14.1-84.4~~ 9-183.16.

~~B. {Repealed.}~~

RATIONALE: Citation corrections.

§ ~~14.1-84.6~~ 9-183.18. Distribution of discretionary fund.

In the case of a city with a population of more than 200,000 receiving per capita aid for law enforcement in accordance with § ~~14.1-84.4~~ 9-183.16 of less than 65 percent of the average per capita aid to law enforcement received by all other cities with a population of more than 200,000 under such provisions, exclusive of amounts payable by reason of this section, the discretionary fund established by § ~~14.1-84.4~~ 9-183.16 shall first be used to pay such city an aggregate sum so as to make its per capita receipts for law enforcement under § ~~14.1-84.4~~ 9-183.16 equal to 65 percent of the average per capita aid for law enforcement disbursed to all other cities with a population of more than 200,000. The remainder, if any, shall be distributed per capita among (i) cities with populations under 200,000; (ii) eligible counties; and (iii) towns having police departments.

RATIONALE: Citation corrections.

§ ~~14.1-84.6:1~~ 9-183.19. Eligibility for funds.

A. Any city, county, or town establishing a police department shall provide the Department written notice of its intent to seek state funds in accordance with the provisions of this article. Such city, county, or town shall become eligible to receive funds at the beginning of the next fiscal year which commences not sooner than twelve months after the filing of this notice.

B. No city, county, or town shall receive any funds in accordance with the terms of this article unless it notifies the Department prior to July 1 each year that its law-enforcement personnel, whether full-time or part-time and whether permanently or temporarily employed, have complied with the minimum training standards as provided in §§ 9-170 and 9-180, unless such personnel are exempt from the minimum training standards as provided in §§ 9-173 and 9-179 or that an effort will be made to have its law-enforcement personnel comply with such minimum training standards during the ensuing fiscal year. Any city, county, or town failing to make an effort to comply with the minimum training standards may be declared ineligible for funding in the succeeding fiscal year by the Department.

C. A change in the form of government from city to tier-city shall not preclude the successor tier-city which continues to provide a police department from eligibility for funds.

RATIONALE: No change.

§ ~~14.1-84.6:2~~ 9-183.20. Law-enforcement expenditures for certain counties.

Any county consolidated under the provisions of Chapter ~~26~~ 35 (§ ~~15.1-1071~~ 15.2-3500 et seq.) of Title ~~15.1~~ 15.2 shall be eligible to receive financial assistance for law-enforcement expenditures

subject to the provisions of ~~Article 10 (§ 14.1-84.1 et seq.) of Chapter 1 of Title 14.1~~ *this article*. The consolidated county shall be eligible to receive, on behalf of the formerly incorporated towns which became shires, boroughs or special service tax districts within the consolidated county, law-enforcement assistance under the provisions of ~~Article 10 of Chapter 1 of Title 14.1~~ *this article*, provided that the consolidation agreement approved pursuant to ~~Chapter 26 of Title 15.1~~ *Chapter 35 of Title 15.2* provides for the additional law-enforcement governmental services previously provided by the police department of such incorporated towns.

RATIONALE: No change.

~~§ 14.1-84.7 9-183.21.~~ Periodic determination of weights and constants.

Prior to the convening of the General Assembly in each even-numbered year, the Department shall cause research to be conducted to determine whether the variables incorporated in the equation used in the distribution formula are statistically acceptable for such computation, and to determine whether any other variables would be better predictors of crime. If, as a result of this research, the Department determines that the variables used in the equation should be changed, it shall recommend to the General Assembly appropriate legislation to accomplish such change.

RATIONALE: No change.

~~(Title 17.1)~~

~~Article 1, Chapter 2.~~

~~Article 7.~~

~~General Provisions-Fees~~

~~§ 14.1-85.~~

~~Repealed by Acts 1979, c. 465.~~

~~§ 14.1-86. Salaried officers not to receive fees from Commonwealth in criminal cases; payment of fees taxed as costs to nonsalaried officers; allowance for serving criminal process in cities.~~

~~No special magistrate, judge, constable, or captain or sergeant of police who receives a salary or allowance for general service out of the treasury of his county or corporation shall receive any fees for services in a criminal case from the Commonwealth, city or county, and no magistrate who receives a salary for general service out of the state treasury shall receive any fees for services in a criminal case from the Commonwealth; but all such fees to such officers shall be paid by the party against whom judgment is rendered; provided, however, that whenever any such fees accruing to any person mentioned in this section who does not receive such salary or allowance are taxed as part of the costs and are paid into court, the clerk of such court shall pay over such fees to such person entitled thereto. But the judge of any city or corporation court may make an allowance not exceeding \$600 a year to each of two constables, sergeants or policemen of such city or corporation, to be paid in lieu of all fees for serving criminal process of any kind, which allowances shall be paid out of the treasury. When any incorporated community has become a city of the second class under Chapter 22 (§ 15.1-982.1 et seq.) of Title 15.1, then the allowance above provided for shall be made by the circuit court of such city.~~

RATIONALE: Repeal. The provisions of this section are no longer necessary. All fees collected are now processed through either the Compensation Board or the locality, not through the clerk's office or the judge.

~~§ 14.1-87 17.1-266.~~ Services rendered in Commonwealth's cases.

~~No clerk, sheriff or other officer shall receive payment out of the state treasury for any services rendered in cases of the Commonwealth, except when it is as allowed by statute.~~

RATIONALE: Editorial change only.

~~§ 14.1-88 15.2-1627.3.~~ When no costs or fees taxed for attorney for the Commonwealth or city attorney.

~~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.~~

RATIONALE: No change. This section is being moved to Title 15.2, Chapter 16, Article 4, dealing with Commonwealth's attorneys.

~~§ 14.1-89.~~ Services for which sheriff may not charge.

~~No sheriff shall charge for serving any public orders, nor for summoning and impaneling grand~~

juries, nor for any services in elections except as provided under Title 24-1.

RATIONALE: This section has been merged with new § 15.2-1609.3 dealing with sheriffs' fees.

~~§ 14.1-90 17.1-267.~~ Services for which clerks may not charge.

A. No clerk shall charge for taking bond from, administering oath to, or making or copying orders as to the appointment or qualification of any judge, ~~justice of the peacemagistrate~~, sheriff, ~~sergeant~~, treasurer, ~~coroner~~, commissioner of the revenue, ~~superintendent of the poor~~, or of a deputy or assistant of any of them, or of any escheator, supervisor, ~~constable~~, or ~~militia officer~~, or of a guardian or conservator, when his bond is in a penalty not exceeding \$1,000.00, or for making or copying orders as to ~~binding out poor children~~, or as to county allowances, or grand juries, and administering the necessary oaths.

B. No clerk shall charge for copying or making for or furnishing to the Department of Corrections or a federal probation officer a certified copy of a criminal judgment order or criminal sentencing order.

C. No clerk shall charge a fee for (i) executing any order of publication under § ~~14.1-198 17.1-626~~; (ii) keeping, preserving, and holding available for public inspection judgment records, and making entries in and indexing such judgments, or discharging, or marking satisfied, a lien under §§ ~~15.1-227.7 and 15.1-296 15.2-2604, 15.2-2605 and 15.2-2120~~; (iii) docketing judgment on forfeited recognizance or bond under § 19.2-147; (iv) making out reports to the Central Criminal Records Exchange under § 19.2-390; (v) recording a lien in the miscellaneous lien book under § 43-42 or § 43-43; or (vi) filing an appraiser's report under § 56-436.

D. No clerk shall charge a fee for (i) recording the reports of special receivers and commissioners as required by § 8.01-617; (ii) copying in the Induction and Discharge Record information obtained from draft boards or recording the discharge papers, or certified copy of such, of a person who has served in the armed forces of the United States; or (iii) receiving any mark of designation under § 59.1-103.

RATIONALE: No substantive change. Reference to archaic officers have been stricken and citation corrections have been made.

~~§ 14.1-91.~~

~~Repealed by Acts 1983, c. 240.~~

~~§ 14.1-92. No payment from state treasury in proceeding for disobedience of process; where more than one indictment made against same person.~~

~~No officer shall be entitled to payment out of the state treasury for services rendered in a proceeding against any person for disobedience of the process of a court.~~

~~Whenever more than one indictment shall be made against the same person or persons, at any term of a court for offenses growing out of the same transaction, when all of such offenses could have been properly included in a single indictment, no payment shall be made out of the state treasury to the clerk for services rendered in connection with the trial on, or other disposition of, any of such indictments in excess of one.~~

RATIONALE: Repeal. The only "services rendered" are for service of process which is covered by former § 14.1-105 (new § 17.1-272). The remaining provisions dealing with clerk's fees for indictments are repealed because the burden of determining when all charges should have been included in a single indictment is not properly placed upon the clerk.

~~§ 14.1-93. For return when no levy made, etc.~~

~~Whenever on any decree of judgment in a civil case any fieri facias issued by the clerk of any court is placed in the hands of any officer and no levy is made or forthcoming bond is taken thereon, and a return is made by the officer, the officer so making a return thereon shall be allowed a fee of twelve dollars for making the return.~~

RATIONALE: Delete. The substantive provisions of this section have been added to former § 14.1-105 (now § 17.1-272).

~~§ 14.1-94. No commissions when no sale made under levy; expenses in such cases.~~

~~In any case in which such officer makes a levy and advertises property for sale and by reason of a settlement between the parties to the claim or suit the officer is not permitted to sell under such levy, such officer shall not be entitled to any commissions, but shall in addition to his fees for making the~~

levy and return and the fee provided by ~~§ 14.1-95~~, be entitled to recover from the party for whom the services were performed the expenses incurred by such officer in and about the advertisement of the proposed sale of the property.

RATIONALE: Delete. This section is being merged with new § 15.2-1609.3 dealing with sheriffs' fees and commissions.

~~§ 14.1-95. Fee when no sale made under levy.~~

~~When, after distraining or levying on tangible property the officer neither sells nor receives payment and either takes no forthcoming bond or takes one which is not forfeited, he shall, if not in default, have in addition to the sixty cents for a bond if one was taken a fee of twelve dollars, unless this is more than one-half of what his commission would have amounted to if he had received payment, in which case he shall, whether a bond was taken or not, have a fee of at least one dollar and so much more as is necessary to make such half.~~

RATIONALE: Delete. This section is being merged with new § 15.2-1609.3 dealing with sheriffs' fees and commissions.

~~§ 14.1-95.1. Fee for levy on cash, etc., by writ of fieri facias.~~

~~When a levy is made upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478, the officer shall be allowed a fee of twelve dollars.~~

RATIONALE: The provisions of this section are being moved to former § 14.1-105 (now § 17.1-272) dealing with process and service fees generally.

~~§ 14.1-96 17.1-268. Fee for effort to serve when person cannot be found.~~

~~Whenever a sheriff or constable shall be is required to serve a declaration in ejectment or an order, notice, summons or other process in a pending civil case and make return thereon and shall after due effort and without fault be unable to locate such person or make service of such process in some method provided by law, there shall be paid to such officer the sheriff shall be paid the same fee provided by law for serving an order, notice or other process and making return thereof, to be taxed as other costs are, in any pending case. When such service is required in a proceeding not pending in a court then the service shall be paid for by the party at whose instance it is had. But no such fee shall be paid unless such officer when he the sheriff returns such paper unexecuted shall make and makes and file files therewith an affidavit setting forth the fact that he has made diligent effort to execute such paper and without avail.~~

RATIONALE: No substantive change. Reference to archaic officers has been stricken and editorial changes only.

~~§ 14.1-97 17.1-269. To whom fees charged.~~

~~Unless otherwise provided, the fees mentioned in this chapter article shall be chargeable to the party at whose instance the service is performed, except that fees for entering and certifying the attendance of witnesses and the proceedings to compel payment for such attendance shall be charged to the party for whom the witness attended.~~

RATIONALE: No substantive change.

~~§ 14.1-98 17.1-270. Officer to state fees, etc., on affidavit, deposition or report.~~

~~A notary or other officer returning affidavits or depositions of witnesses and a commissioner returning a report shall state at the foot thereof the fees therefor, to whom charged and, if paid, by whom.~~

RATIONALE: No change.

~~§ 14.1-99. Entry of costs in margin of judgment, etc.; payment.~~

~~An officer or witness to whom, for fees or attendance, anything is due that is taxed in the costs for which there is a judgment or decree may, within one month after such judgment or decree, lodge in the clerk's office of the court wherein the same was rendered his fee bills for such fees or certificate for such attendance. The amount due each officer or witness for what is so lodged shall, and the amount due the clerk himself for fees so included may, within such month, be noted in the margin of the order or execution book, opposite the entry of the case. An officer or witness whose fees or certificates are so noted shall be paid the same out of the costs by the person against whom the judgment or decree is; and the right to such payment shall be valid against any assignee of the judgment or decree. When the clerk issues execution in such case, he shall endorse thereon how much of the costs is for each officer or witness whose fees or certificates are so noted; and the officer~~

collecting the costs shall pay the same accordingly to those entitled thereto.

RATIONALE: Repeal. This section is archaic as fee bills are no longer used.

~~§ 14.1-100. Disposition of costs in criminal cases; disbursement of costs collected by judge.~~

All costs in a criminal case, if there be a judgment for same against the defendant, or the prosecutor, other than the Commonwealth, shall, when collected, be paid by the officer collecting the same to the clerk of the court in which the judgment was rendered or to whom the judge has certified costs in cases in which costs are not paid the judge, and shall be paid by such clerks as follows: Such of the costs as have been allowed and paid out of the state treasury shall be paid by such clerk into the state treasury, and such costs as have not been allowed and paid out of the state treasury shall be disbursed by the clerk to the several parties entitled thereto.

A judge shall disburse costs collected by him to the parties entitled to the same.

RATIONALE: Repeal. Costs in criminal cases are collected in favor of the Commonwealth and deposited in the state treasury. No costs are paid by the clerk to parties in a criminal case.

~~§ 14.1-101 17.1-271. Deposit of money in bank.~~

Whenever any judge of a district court, clerk of a court, magistrate or constable receives or collects any money for or on account of the Commonwealth or any county, city, town or person, he shall, within a reasonable time, deposit the same, except so much thereof as may be necessary for the payment in cash of fees collected for other officers and for the payment of witnesses, in such bank or banks as may be selected by him, to the credit of an official account, and in the event of the failure or insolvency of such bank, he the clerk shall not be responsible for any loss of funds so deposited resulting from such failure or insolvency.

Any such officer who deposits any such money in his personal account, knowingly intermingles any of the same with his personal funds, or otherwise violates any of the provisions of this section shall be deemed guilty of a misdemeanor. However, prosecution hereunder shall not preclude criminal prosecution under any other section of this Code.

RATIONALE: Judges and magistrates no longer collect fees and clerks no longer disperse fees. Witnesses, jurors, etc. are paid or reimbursed out of a fund for that purpose either by the state or the locality.

~~§ 14.1-102. Section 15.1-19 not affected by chapter.~~

Nothing in this chapter contained shall be construed as repealing or in any way affecting § 15.1-19 relating to boards of supervisors and councils furnishing commissioners of the revenue, county treasurers and certain clerks with certain supplies and equipment necessary for the conduct of their offices.

RATIONALE: Repeal. The responsibility of the localities to furnish supplies and equipment is contained in § 15.2-1656 and need not be repeated here.

Article 2.

Amounts of Fees.

~~§ 14.1-103 2.1-71.2. Secretary of Commonwealth.~~

The Secretary of the Commonwealth shall charge for services rendered in his office the following fees, to be paid by the person for whom the service is rendered at the time it is done:

For a testimonial, including seal tax	\$10.00
For a copy of any paper, if on one sheet	1.00
And for each sheet after the first75
For issuing a commission to a commissioner	
in another state	7.00
For power of attorney for nonresident	
insurers, contractors	3.00
For service of process on parties, each defendant ..	15.00
For service of process on reciprocal insurers	7.00
For registration of name, badge and insignia	7.50
For affixing the Seal of the Commonwealth	2.00
For issuing a commission to a notary for	
the Commonwealth at large, including seal tax	25.00

And for filing in his office any paper required by law to be filed, the same - fee as is allowed by law for recording similar papers.

RATIONALE: The provisions of this section are being moved to Title 2.1, Chapter 8, Secretary of the Commonwealth.

~~§ 14.1-104 30-14.01. Clerk of House of Delegates Certifying copy of act; fee.~~

The Clerk of the House of Delegates shall charge for certifying a copy of an Act of Assembly the sum of five dollars.

RATIONALE: The provisions of this section are being moved to Title 30, Chapter 1, General Assembly and Officers Thereof.

~~§ 14.1-105 17.1-272. Process and service fees generally.~~

The fees shall be as follows fee for process and service in the following instances shall be twelve dollars:

(1) ~~For service~~ Service on any person, firm or corporation, a declaration in ejectment, order, notice, summons or any other civil process, except as herein otherwise provided, and for ~~servicing~~ service on any person, firm, or corporation any process when the body is not taken and making a return thereof, ~~the sum of twelve dollars~~ except that no fee shall be charged for service pursuant to § 9-6.14:13.

(2) ~~For summoning~~ Summoning a witness or garnishee on an attachment, ~~twelve dollars.~~

(3) ~~For servicing~~ Service on any person of an attachment or other process under which the body is taken and making a return thereon, ~~twelve dollars.~~

~~(4), (5) [Repealed.]~~

~~(6) For servicing~~ (4) Service of any order of court not otherwise provided for, ~~twelve dollars.~~ Notwithstanding the provisions of this subsection, except that no fees shall be charged for protective orders issued pursuant to Chapter 11 (§ 16.1-226, et seq.) of Title 16.1.

~~(7) For servicing~~ (5) Service of a writ of possession, ~~twelve dollars.~~

~~(8) For levying~~ (6) Levying an execution or distress warrant or an attachment, ~~twelve dollars.~~

(7) Making a return of a writ of fieri facias where no levy is made or forthcoming bond is taken.

(8) Levying upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478.

~~(9) For~~ The process and service fee for serving any papers returnable out of state, shall be fifty dollars.

~~Such~~ The fees set out in this section shall be allowable for services provided by such officers in the circuit and district courts.

RATIONALE: This section has been rewritten for clarity, and the provisions of former §§ 14.1-93 and 14.1-95.1 dealing with fee for levying on money and return of writs of fieri facias have been added here.

~~§ 14.1-105.1 17.1-273: Not set out.~~ Establishment and disposition of fees collected by certain high constable.

Notwithstanding any provision of law to the contrary, including a general or special act, any city having a population in excess of 265,000 as reported in the U.S. Census of 1980 and having an office of the high constable, may, by duly adopted local ordinance, establish fees for the service of process by such office. The office of the high constable in such city shall publish a schedule of such fees by January 1 of each year. Copies of the schedule shall be forwarded to all other high constables in the Commonwealth and to the Clerk of the Supreme Court of Virginia. Only in cities having a population in excess of 265,000 as reported in the U.S. Census of 1980, such shall high constables shall execute all processes, warrants, summonses and notices in civil cases before the general district court of such the city to the exclusion of the sheriff of such the city. Any fees, collected by the office of the high constable for such process, shall be deposited in the treasury of the city wherein such office is situated for use in the general operation of city government.

RATIONALE: Not set out. Norfolk is the only city which is authorized a high constable office. Reference to other constables has been deleted.

~~§ 14.1-106. Change of rates for keeping horse or livestock.~~

The circuit court of any county or the corporation court of any city may, at any time, fix or alter the rates to be thenceforth paid in such county or corporation for keeping and supporting any horse or

livestock, but the rates so fixed or altered shall never exceed those mentioned in ~~§ 14.1-105.~~

RATIONALE: Repeal. This section is obsolete.

~~§ 14.1-107. Expense of keeping or removing property.~~

The officer shall be paid any necessary expense incurred by him in keeping property not mentioned in ~~§ 14.1-105~~ or in removing any property.

RATIONALE: Repeal. Article 3, Chapter 16 of Title 15.2 already sets out how expenses of sheriffs offices are paid (see new § 15.2-1609.2).

~~§ 14.1-108 17.1-274.~~ Commission on forthcoming bond.

A. The commission to be included in a forthcoming bond, when one is taken, shall be five percent. Such commission shall not be received unless the bond is forfeited or paid, including the commission, to the plaintiffs. Of whatever interest accrues on such bond, or the execution of judgment thereon, the officer shall be entitled to his proportionable share, on account of his fees included in such bond.

RATIONALE: No substantive change. The provisions of former § 14.1-110 are to be added here because both sections deal with commissions on forthcoming bonds.

~~§ 14.1-109.~~

~~Repealed by Acts 1995, c. 51.~~

~~§ 14.1-110. Commissions on bonds and collections in certain cities.~~

B. In cities of a population of 100,000 and more, however, the commission to be included in a forthcoming bond, when one is taken, shall be ten percent on the first \$100 of the money for which the distress or levy is and two percent on the residue of such money. Such commission shall not be received unless the bond is forfeited or paid, including the commission, to the plaintiffs. Of whatever interest may accrue on such bonds, or the execution of judgment thereon, the officer shall be entitled to his proportionate share, on account of his fees included in the sale. An officer in any such city receiving payment in money or selling goods shall receive the like commission of ten percent on the first \$100 of the money paid or proceeding from the sale and two percent on the residue; except that when such payment or sale is on an execution on a forthcoming bond, his commission shall only be half what it would be if the execution were not on such bond.

RATIONALE: The provisions of this section are added to former § 14.1-108 (now § 17.1-274) because both sections deal with commissions on forthcoming bonds. This section is an exception to the rule for certain cities. No substantive change has been made.

~~§ 14.1-111.~~

~~Repealed by Acts 1995, c. 51.~~

~~§ 14.1-111.1. Fees in criminal cases.~~

A fee of twelve dollars shall be charged to a defendant found guilty in a criminal case coming before a circuit court (i) as costs for serving a warrant or summons other than on a witness when no arrest is made or (ii) as costs for making an arrest upon a misdemeanor or felony charge.

RATIONALE: Repeal. The provisions of this section have been moved to new § 17.1-275 (see subsections 10d and 11d) which establishes the laundry list of clerk's fees.

~~§ 14.1-112 17.1-275.~~ Clerks Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

(1) When a writing is admitted to record under Chapter 2 (§ ~~17-33~~ 17.1-200 et seq.) of Title 17 this title, or Chapter 5 (§ 55-80 et seq.) or Chapter 6 (§ 55-106 et seq.) of Title 55, for everything relating to it, except the recording in the proper book; for receiving proof of acknowledgments, entering orders, endorsing clerk's certificate, and when required, embracing it in a list for the commissioner of the revenue, one dollar.

(2) For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, thirteen dollars, including the fee of one dollar set forth in subdivision (1) for up to four pages and one dollar for each page over four pages, and for recording plats too large to be recorded in the deed books, and for each sheet thereof, thirteen dollars. This fee shall be in addition to the fee for recording a deed or other instrument recorded in conjunction with such plat sheet or sheets including the fee of one dollar set forth in subdivision (1). Only a single fee as authorized by this subdivision shall be charged for recording a certificate of

satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. In addition, a fee of one dollar shall be charged for indexing any document for each name indexed exceeding a total of ten in number. One dollar of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

~~(3) [Repealed.]~~

~~(4)~~ (3) For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, twenty dollars for estates not exceeding \$50,000, twenty-five dollars for estates not exceeding \$100,000 and thirty dollars for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

~~(5)~~ (4) For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, ten dollars.

~~(6)~~ (5) For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, ten dollars.

~~(7)~~ (6) For making out any bond, other than those under § ~~14.1-99~~ 17.1-267 or subdivision ~~(5)~~ (4) of this section, administering all necessary oaths and writing proper affidavits, three dollars.

~~(8)~~ (7) For issuing any execution, and recording the return thereof, \$1.50 and for all services rendered by the clerk in any garnishment or attachment proceeding the clerk's fee shall be fifteen dollars in cases not exceeding \$500 and twenty-five dollars in all other cases.

~~(9) [Repealed.]~~

~~(10)~~ (8) For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of fifty cents for each page. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

~~(11)~~ (9) For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge two dollars and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional fifty cents.

~~(12) through (14) [Repealed.]~~

~~(15)~~ (10a) Upon conviction in felony cases or when a felony defendant's suspension of sentence and probation is revoked pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall charge the defendant thirty-six dollars in each case, one dollar of which shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § ~~14.1-133.4~~ 9-178.2, to be used for financial support of the regional criminal justice training academies.

(10b) In addition, in each case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of \$100 for each felony conviction and each felony disposition under § 18.2-251 and (ii) a fee of \$100 per case for any forensic laboratory analysis performed for use in prosecution of such violation. Such fees shall be taxed as costs to the defendant and shall be paid into the general fund of the state treasury.

(10c) In addition, in all felony cases, including the revocation of suspension of sentence and probation held pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall collect and tax as costs (i) the expense of reporting or recording the trial or hearing in an amount equal to the per diem charges of the reporter or reasonable charge attributable to the cost of operating the mechanical or electronic devices in accordance with § 19.2-165, (ii) a fee of two dollars and fifty cents per charge, (iii) the fees of the attorney for the Commonwealth as provided for in § ~~14.1-121~~ 15.2-1627.3, (iv) the compensation of court-appointed counsel as provided in § 19.2-163, (v) the fees of the public defenders as provided for in § 19.2-163.2, (vi) the additional costs per charge imposed under § 19.2-368.18 to be deposited into the Criminal Injuries Compensation Fund, and (vii) in any court of record in which electronic devices are used for the purpose of recording testimony, a sum not to exceed twenty dollars for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service contracts.

(10d) In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a

criminal case in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by the sheriff.

~~(16)~~(11a) Upon conviction in misdemeanor cases, the clerk shall charge the defendant twenty-six dollars in each case. Sums shall be collected for and paid to the benefit of the Virginia Crime Victim-Witness Fund as provided for in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § ~~14.1-133.4~~ 9-178.2, to be used for financial support of the regional criminal justice training academies, irrespective of whether the defendant was convicted of a misdemeanor chargeable under the Code of Virginia or pursuant to a local ordinance.

(11b) In addition, in each case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of fifty dollars for each misdemeanor conviction and (ii) a fee of \$100 per case for any forensic laboratory analysis performed for use in prosecution of such violation. Such fees shall be taxed as costs to the defendant and shall be paid into the general fund of the state treasury.

(11c) In addition, for each misdemeanor case the clerk shall collect and tax as costs (i) the fees of the attorneys for the Commonwealth as provided for in § ~~14.1-121~~ 15.2-1627.3, (ii) the compensation of court-appointed counsel as provided in § 19.2-163, (iii) the fees of the public defenders as provided for in § 19.2-163.2, (iv) the additional costs imposed under § 19.2-368.18 to be deposited into the Criminal Injuries Compensation Fund, and (v) in any court in which electronic devices are used for the purpose of recording testimony, a sum not to exceed five dollars for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service contracts.

(11d) *In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by the sheriff.*

~~(16a)~~ (12) Upon the defendant's being required to successfully complete traffic school or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

~~(17)~~ (13) In all actions at law the clerk's fee chargeable to the plaintiff shall be fifty dollars in cases not exceeding \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000; and in condemnation cases, a fee of twenty-five dollars, to be paid by the plaintiff at the time of instituting the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

~~(17a)~~ (14) In addition to the fees chargeable for actions at law, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering judgment, ~~one dollar and twenty-five cents~~ twelve dollars, and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision ~~(22)~~ (17) of this section.

~~(8)~~ [Repealed.]

~~(19)~~ (15) For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, ten dollars.

~~(20)~~ (16) For each habeas corpus proceeding, the clerk shall receive ten dollars for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

~~(21)~~ [Repealed.]

~~(22)~~ (17) For docketing and indexing a judgment from any other court of this Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of five dollars; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of twenty dollars.

~~(23)~~ (18) For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge ten dollars, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.

~~(24)~~ (19) For receiving and processing an application for a tax deed, ten dollars.

~~(25)~~ (20) For all services rendered by the clerk in any condemnation proceeding instituted by the Commonwealth, twenty-five dollars.

~~(26), (27)~~ [Repealed.]

~~(28)~~ (21) For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, one dollar.

~~(29)~~ (22) For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ten dollars.

~~(30)~~ (23) For preparation and issuance of a subpoena duces tecum or a summons for interrogation by an execution creditor, five dollars.

~~(31)~~ (24) For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, twenty dollars; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

~~(32)~~ (25) For providing court records or documents on microfilm, per frame, ten cents.

~~(33)~~ (26) In all chancery causes, the clerk's fee chargeable to the plaintiff shall be fifty dollars to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

~~(34)~~ (27) For the acceptance of credit cards in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs in accordance with § 19.2-353.3, the clerk shall collect a service charge of four percent of the amount paid.

~~(35)~~ (28) For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of twenty dollars or ten percent of the amount to be paid, whichever is greater, in accordance with § 19.2-353.3.

~~(36)~~ (29) For all services rendered in an adoption proceeding, a fee of twenty dollars, in addition to the fee imposed under § 63.1-236.1, to be paid by the petitioner or petitioners.

~~(37)~~ (30) For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

~~(38)~~ (31) For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of five dollars to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

~~(39)~~ (32) For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, a fee of twenty dollars.

~~(40)~~ (33) For issuance of hunting and trapping permits in accordance with § 10.1-1154, twenty-five cents.

~~(41)~~ (34) For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.

~~(42)~~ [Repealed.]

~~(43)~~ (35) For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of one dollar.

~~(44)~~ (36) For filing power of attorney for service of process, or resignation or revocation thereof, in accordance with § 59.1-71, a fee of twenty-five cents.

~~(45)~~ (37) For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of ten dollars.

~~(46)~~ (38) For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

~~(47)~~ (39) For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of two dollars.

~~(48)~~ (40) For filing a financing statement in accordance with § 8.9-403, the fee shall be as prescribed under that section.

~~(49)~~ (41) For filing a termination statement in accordance with § 8.9-404, the fee shall be as prescribed under that section.

~~(50)~~ (42) For filing assignment of security interest in accordance with § 8.9-405, the fee shall be as prescribed under that section.

~~(51)~~ (43) For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ten dollars.

B. In accordance with § ~~14.1-133.2~~ 17.1-281, the clerk shall collect fees under subdivisions ~~(8), (15), (16), (17), (20), (23)~~ (7), (10), (11), (13), (16), (18) if applicable, ~~(25), (29), (31), (33), (36)~~ (20), (22), (24), (26), (29), and ~~(38)~~ (31) to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § ~~14.1-125.1~~ 17.1-278, the clerk shall collect fees under subdivisions ~~(8), (17), (20), (23)~~ (7), (13), (16), (18) if applicable, ~~(25), (29), (31), (33), (36)~~ (20), (22), (24), (26), (29) and ~~(38)~~ (31) to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § ~~14.1-133.3~~ 9-178.1, the clerk shall collect fees under subdivisions ~~(15)~~ and ~~(16)~~ (10 and (11) to be designated for the Intensified Drug Enforcement Jurisdiction Fund.

E. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions ~~(8), (17), (20), (23)~~ (7), (13), (16), (18) if applicable, ~~(25), (29), (31), (33), (36)~~ (20), (22), (24), (26), (29) and ~~(38)~~ (31) to be designated for public law libraries.

F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

RATIONALE: No substantive change other than the increase in fees under former subdivision (17a). This fee was inadvertently left at the old rate when fees were increased several years ago. The provisions of former § 14.1-111.1 (now repealed) have been added here.

§ ~~14.1-112~~ 17.1-275. (Delayed effective date - See notes) ~~Clerks Fees collected by clerks~~ Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

(1) When a writing is admitted to record under Chapter 2 (§ ~~17-33~~ 17.1-200 et seq.) of ~~Title 17~~ this title, or Chapter 5 (§ 55-80 et seq.) or Chapter 6 (§ 55-106 et seq.) of Title 55, for everything relating to it, except the recording in the proper book; for receiving proof of acknowledgments, entering orders, endorsing clerk's certificate, and when required, embracing it in a list for the commissioner of the revenue, one dollar.

(2) For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, thirteen dollars, including the fee of one dollar set forth in subdivision (1) for up to four pages and one dollar for each page over four pages, and for recording plats too large to be recorded in the deed books, and for each sheet thereof, thirteen dollars. This fee shall be in addition to the fee for recording a deed or other instrument recorded in conjunction with such plat sheet or sheets including the fee of one dollar set forth in subdivision (1). Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. In addition, a fee of one dollar shall be charged for indexing any document for each name indexed

exceeding a total of ten in number. One dollar of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

~~(3) [Repealed.]~~

~~(4)~~ (3) For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, twenty dollars for estates not exceeding \$50,000, twenty-five dollars for estates not exceeding \$100,000 and thirty dollars for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

~~(5)~~ (4) For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, ten dollars.

~~(6)~~ (5) For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, ten dollars.

~~(7)~~(6) For making out any bond, other than those under § ~~14.1-90~~ 17.1-267 or subdivision (5) of this section, administering all necessary oaths and writing proper affidavits, three dollars.

~~(8)~~ (7) For issuing any execution, and recording the return thereof, \$1.50 and for all services rendered by the clerk in any garnishment or attachment proceeding the clerk's fee shall be fifteen dollars in cases not exceeding \$500 and twenty-five dollars in all other cases.

~~(9) [Repealed.]~~

~~(10)~~ (8) For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of fifty cents for each page. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

~~(11)~~ (9) For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge two dollars, and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional fifty cents.

~~(12) through (14) [Repealed.]~~

~~(15)~~ (10a) Upon conviction in felony cases or when a felony defendant's suspension of sentence and probation is revoked pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall charge the defendant thirty-six dollars in each case, one dollar of which shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § ~~14.1-133.4~~ 9-178.2, to be used for financial support of the regional criminal justice training academies.

(10b) In addition, in each case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of \$100 for each felony conviction and each felony disposition under § 18.2-251, and (ii) a fee of \$100 per case for any forensic laboratory analysis performed for use in prosecution of such violation. Such fees shall be taxed as costs to the defendant and shall be paid into the general fund of the state treasury.

(10c) In addition, in all felony cases, including the revocation of suspension of sentence and probation held pursuant to § 19.2-306, other than a revocation for failure to pay prior court costs, the clerk shall collect and tax as costs (i) the expense of reporting or recording the trial or hearing in an amount equal to the per diem charges of the reporter or reasonable charge attributable to the cost of operating the mechanical or electronic devices in accordance with § 19.2-165, (ii) a fee of two dollars and fifty cents per charge, (iii) the fees of the attorney for the Commonwealth as provided for in § ~~14.1-121~~ 15.2-1627.3, (iv) the compensation of court-appointed counsel as provided in § 19.2-163, (v) the fees of the public defenders as provided for in § 19.2-163.2, (vi) the additional costs per charge imposed under § 19.2-368.18 to be deposited into the Criminal Injuries Compensation Fund, and (vii) in any court of record in which electronic devices are used for the purpose of recording testimony, a sum not to exceed twenty dollars for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service contracts.

(10d) In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest is made or (ii) making an arrest on a felony or misdemeanor charge, when

such services are provided by the sheriff.

~~(16)~~ (11a) Upon conviction in misdemeanor cases, the clerk shall charge the defendant twenty-six dollars in each case. Sums shall be collected for the benefit of and paid to the Virginia Crime Victim-Witness Fund as provided for in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § ~~14.1-133.4~~ 9-178.2, to be used for financial support of the regional criminal justice training academies, irrespective of whether the defendant was convicted of a misdemeanor chargeable under the Code of Virginia or pursuant to a local ordinance.

(11b) In addition, in each case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of fifty dollars for each misdemeanor conviction and (ii) a fee of \$100 per case for any forensic laboratory analysis performed for use in prosecution of such violation. Such fees shall be taxed as costs to the defendant and shall be paid into the general fund of the state treasury.

(11c) In addition, for each misdemeanor case the clerk shall collect and tax as costs (i) the fees of the attorneys for the Commonwealth as provided for in § ~~14.1-121~~ 15.2-1627.3, (ii) the compensation of court-appointed counsel as provided in § 19.2-163, (iii) the fees of the public defenders as provided for in § 19.2-163.2, (iv) the additional costs imposed under § 19.2-368.18 to be deposited into the Criminal Injuries Compensation Fund, and (v) in any court in which electronic devices are used for the purpose of recording testimony, a sum not to exceed five dollars for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service contracts.

(11d) *In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by the sheriff.*

~~(16a)~~ (12) Upon the defendant's being required to successfully complete traffic school or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

~~(17)~~ (13) In all actions at law the clerk's fee chargeable to the plaintiff shall be fifty dollars in cases not exceeding \$50,000, \$100 in cases not exceeding \$100,000, and \$150 in cases exceeding \$100,000; and in condemnation cases, a fee of twenty-five dollars, to be paid by the plaintiff at the time of instituting the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

~~(17a)~~ (14) In addition to the fees chargeable in actions at law, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering judgment, ~~one dollar and twenty-five cents~~ *twelve dollars*, and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision ~~(22)~~ (17) of this section.

~~(18)~~ ~~[Repealed.]~~

~~(19)~~ (15) For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, ten dollars.

~~(20)~~ (16) For each habeas corpus proceeding, the clerk shall receive ten dollars for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

~~(21)~~ ~~[Repealed.]~~

~~(22)~~ (17) For docketing and indexing a judgment from any other court of this Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions

of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of five dollars; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of twenty dollars.

~~(23)~~ (18) For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge ten dollars, to be paid by the party filing said papers at the time of filing.

~~(24)~~ (19) For receiving and processing an application for a tax deed, ten dollars.

~~(25)~~ (20) For all services rendered by the clerk in any condemnation proceeding instituted by the Commonwealth, twenty-five dollars.

~~(26), (27) [Repealed.]~~

~~(28)~~ (21) For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, one dollar.

~~(29)~~ (22) For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ten dollars.

~~(30)~~ (23) For preparation and issuance of a subpoena duces tecum or a summons for interrogation by an execution creditor, five dollars.

~~(31)~~ (24) For all services rendered by the clerk in matters filed in circuit court under § 8.01-217 relating to change of name, twenty dollars; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

~~(32)~~ (25) For providing court records or documents on microfilm, per frame, ten cents.

~~(33)~~ (26) In all chancery cases, the clerk's fee chargeable to the plaintiff shall be fifty dollars to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

~~(34)~~ (27) For the acceptance of credit cards in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs in accordance with § 19.2-353.3, the clerk shall collect a service charge of four percent of the amount paid.

~~(35)~~ (28) For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of twenty dollars or ten percent of the amount to be paid, whichever is greater, in accordance with § 19.2-353.3.

~~(36)~~ (29) For all services rendered in an adoption proceeding, a fee of twenty dollars, in addition to the fee imposed under § 63.1-236.1, to be paid by the petitioner or petitioners.

~~(37)~~ (30) For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

~~(38)~~ (31) For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of five dollars to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

~~(39)~~ (32) For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, a fee of twenty dollars.

~~(40)~~ (33) For issuance of hunting and trapping permits in accordance with § 10.1-1154, twenty-five cents.

~~(41)~~ (34) For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.

~~(42) [Repealed.]~~

~~(43)~~ (35) For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of one dollar.

~~(44)~~ (36) For filing power of attorney for service of process, or resignation or revocation thereof,

in accordance with § 59.1-71, a fee of twenty-five cents.

~~(45)~~ (37) For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of ten dollars.

~~(46)~~ (38) For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

~~(47)~~ (39) For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of two dollars.

~~(48)~~ (40) For filing a financing statement in accordance with § 8.9-403, the fee shall be as prescribed under that section.

~~(49)~~ (41) For filing a termination statement in accordance with § 8.9-404, the fee shall be as prescribed under that section.

~~(50)~~ (42) For filing assignment of security interest in accordance with § 8.9-405, the fee shall be as prescribed under that section.

~~(51)~~ (43) For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ten dollars.

B. In accordance with § ~~14.1-133.2~~ 17.1-281, the clerk shall collect fees under subdivisions ~~(8), (15), (16), (17), (20), (23)~~ (7), (10), (11), (13), (16), (18) if applicable, ~~(25), (29), (31), (33), (36)~~ (20), (22), (24), (26), (29), and ~~(38)~~ (31) to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § ~~14.1-125.1~~ 17.1-278, the clerk shall collect fees under subdivisions ~~(8), (17), (20), (23)~~ (7), (13), (16), (18) if applicable, ~~(25), (29), (31), (33), (36)~~ (20), (22), (24), (26), (29), and ~~(38)~~ (31) to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § ~~14.1-133.3~~ 9-178.1, the clerk shall collect fees under subdivisions ~~(15)~~ and ~~(16)~~ (10) and (11) to be designated for the Intensified Drug Enforcement Jurisdiction Fund.

E. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions ~~(8), (17), (20), (23)~~ (7), (13), (16), (18) if applicable, ~~(25), (29), (31), (33), (36)~~ (20), (22), (24), (26), (29), and ~~(38)~~ (31) to be designated for public law libraries.

F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

RATIONALE: The same amendments are being made as were made to the section currently in effect. The second rendition of this section is in anticipation of the creation of the family court system. If that system is not funded by June 1, 1998, the provisions of this second rendition will expire without becoming effective.

~~§ 14.1-112.1. Same; services pursuant to § 8.01-392.~~

~~For any services of a clerk of a court in reentering certain court records pursuant to the provisions of § 8.01-392, when such services were not rendered necessary by his own neglect, the court shall allow him a reasonable compensation, which shall be chargeable on the county or corporation.~~

RATIONALE: Repeal. The substantive provisions dealing with lost or destroyed order books are found in § 8.01-392. This section is unnecessary.

~~§§ 14.1-112.2 through 14.1-118.~~

~~Repealed by Acts 1994, c. 432.~~

~~§ 14.1-118.1 17.1-276. Same; Fee allowed for providing remote access to certain records.~~

Any clerk who provides remote access, including internet access, to nonconfidential court records or other records pursuant to §§ ~~17-59.2~~ and ~~17-59.3~~ 17.1-225 and 17.1-226 shall charge a fee established by the agency of the county, city or town providing computer support in order to cover the operational expenses of such computer support, including, but not limited to, maintenance, enhancements, upgrades and future replacement. Such fee may be assessed for each inquiry or upon actual connect time. Such fee shall be charged each user and paid to the clerk's office. Furthermore, the clerk may charge a clerk's fee not to exceed twenty-five dollars per month.

RATIONALE: No substantive change.

~~§ 14.1-119. Payments authorized to clerks of courts of record in certain cities.~~

~~The clerk of any court of record of any city in the Commonwealth having a population in excess of 190,000 shall receive out of the treasury of such city, for services rendered to the public of the~~

city, such sum as the council may prescribe, not exceeding \$5,000 in one year.

RATIONALE: Repeal. The provisions of this section are obsolete.

~~§ 44-1-120~~ 17.1-328. *Fees charged by Clerk of Supreme Court.*

The Clerk of the Supreme Court shall charge the following fees:

In every case in which a petition is presented, twenty-five dollars, which shall be collected at the time such petition is presented.

For making and certifying a copy of any record or document in the clerk's office, ten cents per 100 words or twenty-five cents per page.

For verifying and certifying any record or document not actually copied by the clerk, one-half of the fee for copying and certifying, which shall not, however, be applied to the certification of a copy of the record in this court which has already been printed.

For authentication of any record, document or paper under the seal of the court, fifty cents.

For copying and certifying any document or paper of less than 250 words, twenty-five cents.

For administering an oath and entering an order qualifying an attorney to practice in the court, two dollars and a half.

For certificate of such qualification under seal of the court, one dollar plus the cost of engrossing.

For entering an order and licensing an attorney from another state, under the reciprocity statute, \$500.

For a law license certificate under seal of the court and a certificate of qualification under seal of the court, one dollar plus the cost of engrossing.

For all other services not specifically mentioned above, the same fee would be charged by a clerk of a circuit court in similar cases.

RATIONALE: This section is being moved to Article 2, Chapter 3, of new Title 17.1, Supreme Court, Compensation and expenses; fees.

~~§ 44-1-120-1~~ 17.1-418. *Clerk Fees charged by clerk of the Court of Appeals.*

The Clerk of the Court of Appeals shall charge the following fees:

1. For filing a notice of appeal or initiating any matter under the original jurisdiction of the court, twenty-five dollars payable by check or money order to the Clerk of the Court of Appeals.

2. For making and certifying a copy of any record or document in the Clerk's office, ten cents per 100 words or twenty-five cents per page.

3. For verifying and certifying any record or document not actually copied by the Clerk, one-half of the fee for copying and certifying, which shall not, however, be applied to the certification of a copy of the record in the Court which has already been printed.

4. For authentication of any record, document or paper under the seal of the Court, fifty cents.

5. For copying and certifying any document or paper of less than 250 words, twenty-five cents.

6. For all other services not specifically mentioned above, the same fee that would be charged by a clerk of a circuit court in similar cases.

RATIONALE: This section is being moved to Chapter 4, Court of Appeals.

~~§ 44-1-121~~ 15.2-1627.3. Attorneys for the Commonwealth and city attorneys; in criminal cases.

The fees of attorneys for the Commonwealth in all felony and misdemeanor cases and the fees of city attorneys in all 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 felony case in his circuit court, in which only one person is tried at a time, if the punishment prescribed may be death, twenty dollars; if the punishment prescribed is less than death, ten dollars; but where two or more persons are jointly indicted and jointly tried for a felony, in addition to the fees above provided, ten dollars for each person more than one so jointly tried. For each person prosecuted by him at a preliminary hearing upon a charge of felony before any court or judge of his county or city, five dollars.

For each person tried for a misdemeanor in his circuit court, five dollars, 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, 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.

RATIONALE: This section is being moved to Chapter 16 of Title 15.2 in Article 4 dealing with Commonwealth's attorneys. The collection of these fees is noted in former § 14.1-112(15) (now § 17.1-275). This section is being merged with former § 14.1-88.

~~§ 14.1-122. Same; on forfeited recognizances.~~

~~In every scire facias or other proceeding upon a forfeited recognizance where a judgment is awarded in behalf of the Commonwealth or any political subdivision thereof there shall be taxed in the costs an attorney's fee of ten dollars which when recovered shall be paid into the state treasury or the county or city treasury, as the case may be.~~

RATIONALE: Repeal. This section is obsolete.

~~§ 14.1-122.1 17.1-277. Fees in traffic infraction cases.~~

Notwithstanding any other provisions of law, fees for services of clerks of courts, law-enforcement and court officers, city attorneys, and attorneys for the Commonwealth in cases involving traffic infractions shall be allowed and paid as ~~prescribed in this title~~ provided for misdemeanor cases.

RATIONALE: No substantive change.

~~§ 14.1-123 16.1-69.48:1. Fees for services performed by judges or clerks of district courts in criminal or traffic cases.~~

A. Fees for services performed by the judges or clerks of district courts in criminal or traffic actions and proceedings shall be as follows and such fees shall be included in the taxed costs:

1. For processing a case of a misdemeanor or a traffic violation, including a case in which there has been written appearance and waiver of court hearing, and including swearing witnesses and taxing costs, twenty-eight dollars, and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § ~~14.1-133.4~~ 9-178.2, to be used for financial support of the regional criminal justice training academies.

Assessment of this fee shall be based on:

- (i) An appearance for court hearing in which there has been a finding of guilty;
- (ii) A written appearance with waiver of court hearing and entry of guilty plea;
- (iii) For a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty.

In addition to any other fee prescribed by this subsection, a fee of ten dollars shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the fee provided in this subsection more than once for a single appearance or trial in absence related to that incident. A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence; or

(iv) An appearance for court hearing in which the court requires that the defendant successfully complete traffic school or a driver improvement clinic, in lieu of a finding of guilty.

2. For processing any check tendered in a case of traffic violation that has been returned unpaid by any banking institution, such fee as is determined pursuant to § 19.2-353.3.

B. Three dollars of the amount collected hereunder shall be collected for the benefit of and paid to the Virginia Crime Victim-Witness Fund as provided in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § ~~14.1-133.4~~ 9-178.2, to be used for financial support of the regional criminal justice training academies, irrespective of whether the defendant's case was processed as a violation of the Code of Virginia or as a violation of a local ordinance.

RATIONALE: This section deals with fees in the district courts. It is being moved to Article 5, Chapter 4.1 of Title 16.1, Financing of the District System. Appropriate cross references have been changed.

~~§ 14.1-124. Certain cities may waive certain fees chargeable under § 14.1-123.~~

~~Notwithstanding the provisions of § 14.1-123, in any city having a population of not less than 45,000 nor more than 60,000, or in any city having a population of more than 100,000 but less than 114,000, according to the last preceding United States census, the governing body thereof may, by~~

~~resolution duly adopted, waive the provisions of such section, and not charge any fees which go into the city treasury for services performed hereunder, and direct the court and the clerk thereof not to tax such fees as costs.~~

RATIONALE: Repeal. The fees now collected in the district court are state fees, not local, and cannot be waived by a locality.

~~§ 14.1-125~~ 16.1-69.48:2. Fees for services of district court judges and clerks and magistrates in civil cases.

Fees in civil cases for services performed by the judges or clerks of general district courts or magistrates in the event any such services are performed by magistrates in civil cases shall be as provided in this section, and, unless otherwise provided, shall be included in the taxed costs and shall not be refundable, except in case of error or as herein provided.

For all court and magistrate services in each distress, detinue, interrogatory summons, unlawful detainer, civil warrant, notice of motion, garnishment, attachment issued, or other civil proceeding, the fee shall be twelve dollars unless otherwise provided in this section. No such fee shall be collected (i) in any tax case instituted by any county, city or town or (ii) in any case instituted by a school board for collection of overdue book rental fees.

The judge or clerk shall collect the foregoing fee at the time of issuing process. Any magistrate or other issuing officer shall collect the foregoing fee at the time of issuing process, and shall remit the entire fee promptly to the court to which such process is returnable, or to its clerk. When no service of process is had on a defendant named in any civil process other than a notice of motion for judgment, such process may be reissued once by the court or clerk at the court's direction by changing the return day of such process, for which service by the court or clerk there shall be no charge; however, reissuance of such process shall be within three months after the original return day.

The clerk of any district court may charge a fee for making a copy of any paper of record to go out of his office which is not otherwise specifically provided for. The amount of this fee shall be set in the discretion of the clerk but shall not exceed one dollar for the first two pages and fifty cents for each page thereafter.

The fees prescribed in this section shall be the only fees charged in civil cases for services performed by such judges and clerks, and when the services referred to herein are performed by magistrates such fees shall be the only fees charged by such magistrates for the prescribed services.

RATIONALE: This section deals with fees in the district courts. It is being moved to Article 5, Chapter 4.1 of Title 16.1, Financing of the District System.

~~§ 14.1-125.1~~ 17.1-278. Additional fees in certain courts; use by Virginia State Bar.

In addition to the fees prescribed by §§ ~~14.1-112 (17)~~ and ~~14.1-125~~ 17.1-275 (13) and 16.1-69.48:2 to be collected by the clerk of the circuit or general district court upon the filing of papers for the commencement of civil actions in such courts, the following additional fees shall be collected in all cities and counties in which civil legal representation is provided for the poor, without charge, by a nonprofit legal aid program organized under the auspices of the Virginia State Bar: (i) upon commencement of an action whether at law or in chancery in such circuit court, an additional fee of two dollars, and (ii) upon commencement of a civil action in such general district court, an additional fee of two dollars.

The additional fees prescribed by this action shall be collected by the clerk at the time of the filing. The amounts so collected shall be paid by the clerk to the state treasury and credited to a special fund within the State Bar fund to be designated the Legal Aid Services Fund. Such amounts shall be disbursed by the Virginia State Bar by check from the State Treasurer upon a warrant of the Comptroller to nonprofit legal aid programs organized under the auspices of the Virginia State Bar through the Legal Services Corporation of Virginia to assist in defraying the costs of such programs. However, the additional fees prescribed by this section shall not be collected in actions initiated by any local government or by the Commonwealth.

RATIONALE: No substantive change. Cross references have been changed as appropriate.

~~§ 14.1-125.2~~ 17.1-279. (Effective until July 1, 1998) Additional fee to be assessed by circuit court clerks for information technology.

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a three-dollar fee, known as the "Technology Trust Fund Fee," in each law and chancery

action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

B. Two dollars of every three-dollar fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) obtaining office automation and information technology equipment, including software and conversion services; (ii) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades which may include, but not necessarily be limited to, a digital imaging system; and (iii) improving public access to court records. The Compensation Board in consultation with the circuit court clerks shall develop policies governing the allocation of funds for these purposes. In allocating funds, the Compensation Board may consider the current automation of the clerks' offices and the recommendations made in the 1996 report by the Joint Legislative Audit and Review Commission ("JLARC") regarding automation of the circuit court clerks' offices. Except for improvements as provided in subsection E, such policies shall require a clerk to submit to the Compensation Board a written certification from the Council on Information Management that the clerk's proposed technology improvements will be compatible with a system to provide statewide remote access to land records in accordance with the recommendations of JLARC and the Task Force on Land Records Management (the "Task Force") established by the Council on Information Management.

The annual budget submitted by each circuit court clerk pursuant to ~~§ 14.1-50~~ 15.2-1636.7 may include a request for technology improvements in the upcoming fiscal year to be allocated by the Compensation Board from the trust fund. Such request shall not exceed the deposits into the trust fund credited to that locality. The Compensation Board shall allocate the funds requested by the clerks in an amount not to exceed the deposits into the trust fund credited to their respective localities.

C. The remaining one dollar of each such fee may be allocated by the Compensation Board from the trust fund for the purposes of (i) funding studies by the Task Force; (ii) funding studies by the Department of Information Technology or other public or private organizations to develop individual land-records automation plans for individual circuit court clerks' offices; and (iii) implementing the plan to modernize land records in individual circuit court clerk's offices and provide remote access to land records throughout the Commonwealth.

D. Such fee shall not be assessed to any instrument to be recorded in the deed books nor any judgment to be docketed in the judgment lien docket books tendered by any federal, state or local government.

E. Notwithstanding any other provisions of this chapter, each circuit court clerk may apply to the Compensation Board for an allocation from the Technology Trust Fund for automation and technology improvements for any one or more of the following: (i) equipment and services to convert paper, microfilm, or similar documents to a digital image format, (ii) the conversion of information into a format which will accommodate remote access, and (iii) the law and chancery division of his office. However, allocations for (iii) above shall not exceed the pro rata share of the collections of the three-dollar fee relative to the chancery and law actions filed in the jurisdiction as provided in this section.

F. Information regarding the technology programs adopted by the circuit court clerks shall be shared with the Department of Information Technology, the Library of Virginia, and the Office of the Executive Secretary of the Supreme Court.

G. Nothing in this section shall be construed to diminish the duty of local governing bodies to furnish supplies and equipment to the clerks of the circuit courts pursuant to ~~§ 15.1-19~~ 15.2-1656. Revenue raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices by local governing bodies.

RATIONALE: No substantive change. Cross references have been changed as appropriate.

~~§ 14.1-126. Services for which no fees provided; what taxed as costs.~~

~~Enumeration of the foregoing fees shall not relieve any judge or clerk of a county or municipal court from performing any duty imposed upon him by law, although no fee be herein set forth covering the services required. In all proceedings the judge or clerk shall tax as costs all charges properly constituting the same.~~

RATIONALE: Repeal. This section is obsolete.

~~§ 14.1-127.~~

~~Repealed by Acts 1968, c. 639.~~

~~§ 14.1-128.~~

~~Repealed by Acts 1975, c. 591.~~

~~§ 14.1-128.1.~~

~~Repealed by Acts 1982, c. 569.~~

~~§ 14.1-129.~~

~~Repealed by Acts 1973, c. 545.~~

~~§ 14.1-130. Fees of police justices, etc., to be paid by city.~~

~~The police justice or other justice having similar jurisdiction and receiving a salary of a city shall not be entitled to receive out of the state treasury the fees provided in § 14.1-128, but every such justice shall be paid by the city for which he is employed.~~

RATIONALE: Repeal. The office of police justice has been abolished.

~~§ 14.1-131 17.1-280. What costs chargeable against prosecutor.~~

~~If any warrant of arrest for a misdemeanor or felony, or a *any* search warrant, ~~be had is issued~~ or procured at the instance of a prosecutor (other than a public officer charged with the enforcement of the laws), and ~~be the warrant is~~ dismissed or the accused discharged from ~~accusation~~ *the charge or charges*, the judge before whom the proceeding is held may give judgment against the prosecutor in favor of the accused for his ~~cost, and must do so, if costs.~~ *If the judge believe believes* from the evidence that the ~~proceeding~~ *warrant* was procured by the prosecutor through malice or without reasonable and probable cause, *the judge shall grant judgment in favor of the accused for his costs.*~~

RATIONALE: No substantive change. This section has been rewritten for clarity.

~~§ 14.1-132.~~

~~Repealed by Acts 1968, c. 639.~~

~~§ 14.1-133 8.01-609.1. Commissioners in chancery.~~

~~A commissioner in chancery may, for services rendered by virtue of his office, charge the following fees, to wit:~~

~~For services which might be performed by notaries, the ~~like~~ fees for ~~like~~ such services; and for any other service such fees as the court by which the commissioner is appointed may from time to time prescribe.~~

~~A commissioner shall not be compelled to make out or return a report until his fees therefor ~~be~~ are paid or security given him to pay so much as may be adjudged ~~right~~ *appropriate* by the court to which the report is to be returned or by the judge thereof in vacation, unless the court ~~or judge see~~ *finds* cause to order it to be made out and returned without such payment or security ~~and shall so order.~~~~

RATIONALE: No substantive change. This section has been rewritten for clarity and is being moved to Title 8.01, Chapter 23, which establishes the appointment, duties and powers of commissioners in chancery.

~~§ 14.1-133.1 8.01-618.1. Fees of special receivers and commissioners for reports.~~

~~Special receivers and commissioners may charge, for the reports made under § 8.01-617, the same fees allowed by law to commissioners in chancery for other reports, to be paid out of the fund in court, and charged to the respective cases therein, in such proportions as the court ~~shall judge right~~ *deems appropriate.*~~

RATIONALE: No substantive change. This section is being moved to Title 8.01, Chapter 23, dealing with commissioners in chancery.

~~§ 14.1-133.2 17.1-281. Assessment for courthouse construction, renovation or maintenance.~~

~~Any county or city, through its governing body, may assess a sum not in excess of two dollars as part of the costs in (i) each civil action filed in the district or circuit courts located within its boundaries and (ii) each criminal or traffic case in its district or circuit court in which the defendant is charged with a violation of any statute or ordinance. The total assessments authorized by any county or city in a civil action pursuant to this section and § 42.1-70 shall not exceed four dollars. If a town provides court facilities for a county, the governing body of the county shall return to the town a portion of the assessments collected based on the number of civil, criminal and traffic cases~~

originating and heard in the town.

The imposition of such assessment shall be by ordinance of the governing body which may provide for different sums in circuit courts and district courts. The assessment shall be collected by the clerk of the court in which the action is filed, remitted to the treasurer of the appropriate county or city and held by such treasurer subject to disbursements by the governing body for the construction, renovation, or maintenance of courthouse or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance.

The assessment provided for herein shall be in addition to any other fees prescribed by law.

RATIONALE: No change.

~~§ 14.1-133.3~~ 9-178.1. Intensified Drug Enforcement Jurisdictions Fund.

There is hereby created a special nonreverting fund to be administered by the Department of Criminal Justice Services, known as the Intensified Drug Enforcement Jurisdictions Fund. This Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

RATIONALE: This section is being moved, without change, to Title 9, Chapter 27, dealing with the Department of Criminal Justice Services.

~~§ 14.1-133.4~~ 9-178.2. Regional Criminal Justice Academy Training Fund.

There is hereby created a special nonreverting fund to be administered by the Department of Criminal Justice Services, known as the Regional Criminal Justice Academy Training Fund. This Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. The Fund shall consist of moneys forwarded to the State Treasurer for deposit in the Fund as provided in ~~subdivisions 15 and 16 of § 14.1-112 § 17.1-275 and subsections A 1 and B of § 14.1-123 § 16.1-69.48:1~~, which sums shall be deposited in the state treasury to the credit of this Fund. Money in the Fund shall be used to provide financial support for regional criminal justice training academies, and shall be distributed as directed by the Department of Criminal Justice Services.

RATIONALE: This section is being moved, without substantive change, to Title 9, Chapter 27, dealing with the Department of Criminal Justice Services. Citations have been corrected.

~~§ 14.1-134.~~

~~Repealed by Acts 1980, c. 580.~~

~~§ 14.1-134.1~~ 16.1-69.48:3. Fees charged to drug offenders.

In each case in a general district court in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess, in addition to any other fee, a fee of \$50 for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251 which shall be included in the taxed costs. The clerk shall pay the fee to the state treasury.

RATIONALE: This section deals with fees in the district court. It is being moved, without change, to Article 5, Chapter 4.1 of Title 16.1, Financing of the District System.

~~§ 14.1-135.~~

~~Repealed by Acts 1994, c. 432.~~

~~§ 14.1-135.1~~ 17.1-282. (Delayed effective date - See note) Fees for services of family court judges and clerks in selected civil cases.

A. Fees in civil cases for services performed by the judges or clerks of family courts shall be as provided in this section:

1. In all suits for divorce and annulment or affirmation of marriage, the fee chargeable to the plaintiff shall be forty dollars to be paid at the time of instituting the suit. No additional fee shall be charged for:

a. The furnishing of a duly certified copy of the final decree. In divorce cases where there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, no fee shall be charged for the furnishing of a duly certified copy of both such decrees.

b. The filing of a cross-bill in any pending suit.

c. The docketing of any judgment, order or decree in the circuit court by order of the family court

or as otherwise provided by law. Pursuant to this subsection, the family court clerk shall transmit an abstract of such judgment, order or decree together with the fee provided in § 14.1-112 (22) 17.1-275 (17) to the clerk of the circuit court to which criminal cases in that family court may be appealed. The family court clerk, upon request, shall furnish at no cost additional abstracts to a party, who may docket such judgment, order or decree in any other court as otherwise provided by law.

d. The recording of a final decree transferring an interest in real property pursuant to § 20-107.3. The family court clerk shall transmit a certified copy of the decree together with the fees provided in subsections (1) and (2) of § 14.1-112 17.1-275 to the clerk of the circuit court in whose current deed book such decree is to be recorded.

2. In adoption proceedings, the fee chargeable to the petitioner or petitioners shall be twenty dollars.

3. In proceedings to amend a birth certificate pursuant to § 32.1-260, the fee chargeable to the petitioner or petitioners shall be forty dollars.

4. In matters relating to a change of name which are ancillary to any family court case, the fee chargeable to the person or persons seeking a name change shall be twenty dollars. The family court clerk shall transmit a certified copy of the order together with the fees provided in subsections (1) and (2) of § 14.1-112 17.1-275 to the clerk of the circuit court in whose current deed book such order is to be recorded.

B. The fees paid by the family court clerk to the clerk of the circuit court for recording and docketing services pursuant to subsection A shall be paid out of fees collected by the family court clerk pursuant to subsection A.

C. The following additional fees as may be applicable shall be paid at the time of the filing of the above-described proceedings by the person or persons initiating the proceedings:

1. § 14.1-105 17.1-272, for process served by the sheriff.
2. § 14.1-125.1 17.1-278, for funding legal services to indigents.
3. § 14.1-133.2 17.1-281, when a courthouse maintenance fee has been imposed by ordinance.
4. § 42.1-70, when a law library fee has been imposed by ordinance.

D. The fees provided for in this section shall be included in the taxed costs and shall not be refunded except in the case of error.

RATIONALE: No substantive change. Cross references have been changed due to this recodification. This section was enacted in anticipation of the creation of the family court system. If that system is not funded by June 1, 1998, the provisions of this section will expire without becoming effective.

Article 3.

~~Maximum Compensation of Certain Fee Officers.~~

§ 14.1-136 17.1-283. Statements required of clerks of courts of record; exceptions.

A. Every clerk of a court of record, except the Clerks of the Supreme Court and the Court of Appeals, shall file monthly with the State Compensation Board a full and accurate statement showing all such fees, allowances, commissions, salaries or other *compensation or* emolument of office, derived from the Commonwealth or any political subdivision thereof, or from any other source whatever, collected or received by him. ~~Such~~ *The statements shall include the date of collection and sources from which the collections were made, and* shall be verified by a procedure agreed upon by the Compensation Board and the Auditor of Public Accounts. *The statements shall be open to public inspection at all times.*

RATIONALE: No substantive change. This section is being combined with former §§ 14.1-138 and 14.1-139 as all three deal with the required monthly fee statements.

~~§ 14.1-137. (For contingent repeal date - See note) Statements required of magistrates, constables, clerks of general district courts and judges of juvenile and domestic relations district courts.~~

~~Every magistrate, constable, clerk of a general district court and judge of a juvenile and domestic relations district court, shall annually, on or before May 1, report under oath to the clerk of the circuit court having jurisdiction in his county or city, on forms provided by the Executive Secretary of the Supreme Court, all fees, allowances, commissions, salary or other compensation or emolument of office derived from the Commonwealth or any political subdivision thereof, or from any other source~~

whatever, collected by him, also charged and not collected by him during the year ending December 31 next preceding. The clerk of the courts to which such reports are initially made shall forward such reports by May 15 to the Executive Secretary of the Supreme Court who shall correlate the information contained in such reports, disseminate it to all courts of record and the Governor, and hold such information accessible to public inspection.

It shall be the duty of the Executive Secretary to prescribe and prepare the form for use in making such reports and to forward forms to courts not of record for distribution to the officers herein required to make such reports.

In the event of the failure of any officer herein required to report by May 1 to file such report, all fees received by him for the period during which he is in default shall be deemed excess fees.

Such excess fees shall be payable to the treasurer of the county or city wherein such officer is employed. In the event of the failure of such officer to pay such excess fees to the treasurer of the county or city in which he is employed, it shall be the duty of the attorney for the Commonwealth of such city or county to collect such excess fees in the circuit court of his city or county.

Nothing in this article shall apply to any such officer when the total compensation received by such officer from all sources is paid by a city, town, or county.

RATIONALE: Repeal. None of these officers receive salaries directly through fees collected by their office. They have been paid salaries by the Supreme Court since the consolidation of the court system in 1973.

~~§ 14.1-138. Details of statements required by §§ 14.1-136 and 14.1-137.~~

~~B. The reports required by §§ 14.1-136 and 14.1-137 statements shall show in detail all sums actually paid for necessary office expenses, premiums on official bond of the principal and deputies, name and amount of compensation to each deputy or assistant, and a detailed statement of every other expense in connection with the administration of the office actually paid out.~~

RATIONALE: No substantive change. This section is being added to former § 14.1-136 (now § 17.1-283) as it sets out the requirement for the monthly report.

~~§ 14.1-139. Records of fees, etc., to be kept.~~

~~Every officer mentioned in §§ 14.1-136 and 14.1-137 shall keep a true and accurate record of all fees, allowances, commissions, salary or other compensation or emolument of office to which he is entitled under the law, the amount of the same actually collected by him and the date of collection and sources from which the collections were made. Such record shall at all times be open to public inspection.~~

RATIONALE: Repeal. The substantive provisions of this section are already covered by former § 14.1-136 (now § 17.1-283). Amendment to the language of that section accomplishes the intent of this section.

~~§ 14.1-140 17.1-284. How excess payable into state or local treasury determined.~~

~~In determining the excess, if any, to be paid into the state treasury by the officers mentioned in § 14.1-136 and to be paid into the treasury of the locality by the officers mentioned in § 14.1-137 clerks, all fees, allowances, commissions, salary or other compensation or emolument of office derived from the Commonwealth or any political subdivision thereof, or from any source whatever, shall be included and enter into the determination of the excess to be paid. In the event the same individual is clerk of one or more courts, such clerk shall make one report for all the courts and include therein all the fees, allowances, commissions, salaries or other compensation or emolument of office derived from the Commonwealth or any political subdivision therein and from any other source whatever; and in like manner the expenses with respect to all of the courts of which he is clerk; and such clerk shall be entitled to the annual allowance prescribed by this article as if he were clerk of only one court.~~

RATIONALE: Reference to the officers mentioned in § 14.1-137 is stricken as that section is being repealed. The provisions apply only to clerks of circuit courts. The provisions of this section concerning a clerk serving more than one court is stricken since no clerk serves more than one court.

~~§ 14.1-140.1 17.1-285. Payment of excess.~~

~~A. The Commonwealth shall be entitled to one-third of the excess fees collected by officers named in § 14.1-136 clerks as required to be reported under § 17.1-283 and the governing body of the~~

county or city shall be entitled to two-thirds of the excess fees collected unless otherwise provided by law. The Compensation Board shall determine on an annual basis by June 30 of each year the methods by which excess fees collected by officers named in ~~§ 14.1-136~~ shall be disbursed.

~~B. The officers mentioned in § 14.1-137 shall at the same time of filing the annual report required by § 14.1-137 pay into the treasury of the locality the amount in excess of the annual allowance to which he is entitled by this article and the expenses incurred, as authorized by the board of supervisors or other governing body of the county or council of the city.~~

~~EB. All of the excess paid into the state treasury by the Clerk clerks of the Supreme Court of Virginia and the Court of Appeals shall be retained therein.~~

RATIONALE: Subsection B is repealed because § 14.1-137 is repealed for the reason stated in the note following that section. Reference to the fees collected by the clerk of the Court of Appeals is added.

~~§ 14.1-141 15.2-1636.18. Deputies, office expenses, premiums on bonds, etc.~~

The State Compensation Board shall determine: ~~(1) How (i) how many deputies and assistants, if any, are necessary to the efficient performance of the duties of the office of the officer filing a report required by § 14.1-136, (2) 17.1-283, (ii) what should be the compensation of such deputies and assistants, (3) (iii) what allowance, if any, should be made for office expenses and premiums on official bonds, and (4) (iv) the manner in which such compensation should be paid or such allowance made.~~ Each of such officers shall, on or before the first day of November in each year, report to the Board, on official estimate blanks, furnished for such purpose, an estimate in itemized form showing the amount of expenses expected to be incurred in the operation and maintenance of his office for the ensuing year, and all such expenses must be approved in advance by the Board in order to be deductible under ~~§ 14.1-140; provided, however, that nothing 17.1-284.~~ Nothing in this section shall be construed as prohibiting the State Compensation Board from increasing at any time in the year allowances for such expenses as provided in ~~§ 14.1-142 15.2-1636.19.~~ The State Compensation Board shall report annually to the Governor on the expenses of such office.

RATIONALE: This section is being moved, with editorial and citation changes only, to Title 15.2, Chapter 16, dealing with the Compensation Board.

~~§ 14.1-142 15.2-1636.19. Adjustment of questions of division of compensation, expenses, etc.~~

The State Compensation Board may adjust equitably all questions of the division of compensation, allowances for deputies and assistants, office expenses and premiums on bonds which may arise ~~under this article by reason of due to~~ the change of incumbents in any such offices or from any other cause; ~~provided, however, that all.~~ All adjustments shall be made as nearly as possible in accordance with the intent of this ~~article Code.~~ ~~And the~~ The Board may, on written application from any ~~of the officers mentioned in § 14.1-136~~ clerk of a court of record, and ~~on~~ for good cause shown, increase the allowance made to such ~~officers clerks~~ for deputies and assistants, office expenses and premiums on bonds. The ~~board of supervisors or other governing body of a county or the council of a city~~ may, by resolution adopted and certified ~~lay before,~~ make to the State Compensation Board any recommendation it may desire to make with respect to the expense account of any ~~officer mentioned in § 14.1-136~~ clerk of a court of record as to increase or decrease of expense.

RATIONALE: This section is being moved, with editorial changes only, to Title 15.2, Chapter 16, dealing with the Compensation Board. The cite to former § 14.1-136 is replaced with language since that section applies only to clerks.

~~§ 14.1-143.~~

~~Repealed by Acts 1981, c. 630.~~

~~§ 14.1-143.1.~~

~~Repealed by Acts 1982, c. 589.~~

~~14.1-143.2 17.1-287. Salaries of clerks of circuit courts.~~

~~A. The annual salaries of clerks of circuit courts effective July 1, 1982, shall be as hereafter prescribed: in the general appropriations act.~~

~~1. In counties or cities having a population of not more than 10,000, such salaries shall be \$28,000.~~

~~2. In counties or cities having a population of more than 10,000 but not more than 20,000, such salaries shall be \$34,500.~~

3. In counties or cities having a population of more than 20,000 but not more than 40,000, such salaries shall be \$39,500.
 4. In counties or cities having a population of more than 40,000 but not more than 70,000, such salaries shall be \$41,500.
 5. In counties or cities having a population of more than 70,000 but not more than 100,000, such salaries shall be \$45,000.
 6. In counties or cities having a population of more than 100,000 but not more than 250,000, such salaries shall be \$49,000.
 7. In counties or cities having a population of more than 250,000, such salaries shall be \$52,000.
- B. Whenever a clerk of a circuit court is such for a county and a city, for two or more counties, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of the circuit court clerk under the provisions of this section.

C. In the event that the salary fixed herein for any clerk is less than that clerk retained from fee and commission income of office pursuant to §14-1-143.1 as it was in effect on December 31, 1981, or §14-1-143 as it was in effect on December 31, 1980, such clerk shall receive an amount equal to the amount retained from fees and commissions for calendar year 1980 or 1981, whichever is higher. Such additional amount shall be retained by the clerk for the duration of his term or his subsequent terms of office, or until such salary fixed herein shall exceed the amount to which he would have previously been entitled. The additional amount shall be retained only to the extent that it is earned from fee and commission income to the office for each fiscal year beginning July 1, 1982.

D. The annual salary herein prescribed shall be full compensation for services performed by the office of the circuit court clerk as prescribed by general law, and for the additional services of acting as general receiver of the court pursuant to §8-01-582, indexing and filing land use application fees pursuant to §58-1-3234, and all other services provided from, or utilizing the facilities of, the office of the circuit court clerk. Pursuant to §8-01-589, the court may provide compensation to the office of the clerk of the circuit court for acting as general receiver of the court. The compensation so allowed shall be fee and commission income to the office of the circuit court clerk.

E. The governing body of any county or city may continue to supplement the salary of an incumbent clerk of the circuit court for additional services pursuant to §§14-1-119, 14-1-164-1, 15-1-533, 33-1-245 and §§14-1-114, 14-1-165, or §15-1-923, or for other additional services for which no statutory fees are provided. Any such supplemental salary shall be paid wholly by such county or city and shall be paid only to those clerks who received such supplement at any time from January 1, 1981, through March 10, 1982. Such supplements, in addition to any supplements paid to the clerks, deputies or employees shall not be considered in determining the excess to be paid into the state treasury pursuant to §14-1-140 whether paid directly to the clerk or paid to his deputies or employees. Any clerk elected or appointed for the first time subsequent to March 10, 1982, shall not receive a local supplement.

F. The salaries herein prescribed shall be paid from fee and commission income of the office of the clerk in each political subdivision. In the event that fee and commission income is not sufficient to pay the salary for a clerk as herein prescribed, the additional required amount shall be paid from the state treasury upon vouchers approved by the State Compensation Board for such sums as will enable the timely payment of the clerk's salary. Any sums so paid shall constitute a state supplement to be accounted for as fees of office pursuant to §14-1-136. In the event that the annual income of office from all sources shall exceed the amount needed to pay the clerk's salary, any sums paid as state supplements to the clerk shall be repaid to the Commonwealth prior to the division of excess fees between the Commonwealth and the clerk's city or county.

G. In any county or city operating under provisions of law which authorize the governing body to fix the compensation of the clerk on a salary basis, such clerk shall receive such salary as shall be allowed by the governing body. Such salary shall not be fixed at an amount less than the amount that would be allowed the clerk under subsection A of this section.

H. The annual salary provided each deputy and other employee of a circuit court clerk for the compensation year 1982 shall not be less than the amount approved by the Compensation Board for that year unless so ordered by the clerk. The local share of total income paid to the clerk for salaries

of deputies and other employees of the clerk for the calendar year 1981 shall not be reduced prior to June 30, 1982. Payments to meet any deficiency in other income needed to pay such salaries shall be made from the state treasury on a monthly basis upon vouchers approved by the State Compensation Board.

I. Every clerk of a circuit court shall submit the report required by § 14.1-136 for the period from January 1, 1982, to June 30, 1982, and monthly thereafter, and shall pay any excess income into the state treasury at the time such report is submitted. Such report shall be filed prior to payment from the state treasury of the state salary for such clerks.

J. No salary shall be reduced by reason of a decline in population during the terms for which the incumbent clerk continues in office.

RATIONALE: This section has been rewritten to refer only to the appropriations act which specifically overrides the provisions of this section.

~~§ 14.1-144.~~

~~Repealed by Acts 1981, c. 630.~~

~~§ 14.1-144.1 17.1-288.~~ Compensation and expenses of clerks of circuit courts in Cities of Richmond and Newport News.

In the City of Richmond, the clerk of the circuit court in the city, and in the City of Newport News, the clerk of the circuit court, shall be paid a salary by the city of not less than the amount which would be allowed to be retained by the respective clerks under state law. Nothing in this paragraph shall be construed to prevent such clerks from receiving any future increases that may be allowed clerks of circuit courts from time to time by the General Assembly.

Such salaries shall be in full compensation for services and shall be in lieu of the retention by such clerks of any and all official fees, commissions and emoluments of whatever kind or character, and from whatever source derived; and the city council of each such city shall provide for the payment of such salaries out of the city treasury in equal biweekly, semimonthly or monthly installments. The expenses of office of such clerks, including the compensation of all deputies and employees, shall likewise be paid to each such clerk out of the city treasury on duly authenticated vouchers when and as such expenses are incurred or may become due and payable or at least monthly. The maximum amount of such expenses shall be fixed by the State Compensation Board, and the Board shall fix the number and compensation of the deputies and employees of each such clerk.

All fees, commissions, and emoluments of every kind or character received or collected by such clerks, and from whatever source derived, shall be paid into the city treasury by such clerks monthly. All fees, commissions, and emoluments of every kind and character whether payable by the Commonwealth, the United States, or by private persons, firms or corporations, now or hereafter made receivable by laws or ordinance by such clerks, shall continue to be paid to and collected by such clerks and shall be paid into the city treasury monthly, except that the city aforesaid shall not be required to pay any such clerk any fees or commissions for services performed for such city.

Except as to the Clerk of the Circuit Court of the City of Newport News, nothing in this section shall be construed to affect or remove any of such clerks, their deputies, or employees from coverage by the Virginia Retirement System, but they shall remain in such system, and the city shall pay to the Virginia Retirement System such amount as the Commonwealth would have been required to pay had such clerks, deputies and employees continued to be compensated under other provisions of former Article 3 (§ 14.1-136 et seq.), Chapter 2 of ~~this title~~ Title 14.1, and the city shall deduct from the salaries paid such clerks, their deputies and employees the employee contribution to the Virginia Retirement System as provided by law.

RATIONALE: No substantive change. Cross reference has been amended, where appropriate, and obsolete language has been deleted.

~~§ 14.1-145.~~

~~Repealed by Acts 1981, c. 630.~~

~~§ 14.1-146.~~ Maximum compensation of certain high constables.

~~Notwithstanding the provisions of §§ 14.1-136 to 14.1-147, and 14.1-156 to 14.1-161 in any city having a population in excess of 180,000 inhabitants, the compensation, exclusive of expenses, of the high constable of such city may exceed the sum of \$7,500 but shall not exceed the sum of \$8,500.~~

RATIONALE: Repeal. When enacted, this section applied to Norfolk and Richmond. Norfolk is the only city which still uses a high constable. This section is being repealed as obsolete.

~~§ 14.1-147. Disposition of fees and commissions collected by certain officers.~~

All fees and commissions of every kind or character received or collected by each of the officers mentioned in the preceding section, and from whatever source derived, shall be paid into the city treasury by each of such officers monthly. All fees and commissions of every kind and character, whether payable by the Commonwealth, the United States, or by private persons, firms or corporations, now or hereafter made receivable by law or ordinance by any such officer as is mentioned in the preceding section, shall continue to be paid to and collected by him, and shall be paid into the city treasury monthly, except that the city aforesaid shall not be required to pay any such officer any fees or commissions for services performed for such city.

RATIONALE: Repeal. This section, when read with the preceding to which it refers, applied only to the corporation court clerk of Newport News. The preceding section, § 14-155.4, was repealed in 1962 (Chapter 386).

~~§§ 14.1-148 through 14.1-150.~~

~~Repealed by Acts 1981, c. 630.~~

~~§ 14.1-151.~~

~~Reserved.~~

~~§§ 14.1-152 through 14.1-155.1.~~

~~Repealed by Acts 1981, c. 630.~~

~~§ 14.1-155.2 17.1-289. Commission on certain local collections not otherwise provided for.~~

The clerk of every circuit court shall be entitled to a commission of five per ~~centum~~ cent on local collections received by ~~such~~ the clerk on which a commission is not otherwise provided for by law. ~~Such~~ The commissions shall be deducted by the clerk before ~~such~~ the collections are paid into the county, town or city treasury.

RATIONALE: Editorial changes.

~~§§ 14.1-155.3, 14.1-155.4.~~

~~Repealed by Acts 1981, c. 630.~~

~~§ 14.1-156. Maximum total annual compensation for officers mentioned in § 14.1-137 except magistrates.~~

The total annual compensation, exclusive of expenses authorized by the board of supervisors or other governing body of the county or the council of the city, or an officer mentioned in § 14.1-137, except magistrates, shall not exceed the sums hereinafter named, to wit:

In cities or counties having a population in excess of 150,000 such compensation of any such officer shall not exceed \$8,000; with a population between 50,000 and 150,000, such compensation of any such officer shall not exceed the sum of \$6,600 per annum; with a population below 50,000, such compensation of any such officer shall not exceed \$5,500 per annum.

Such total compensation of a high constable shall be within the limits specified in § 14.1-143.

RATIONALE: Repeal. Compensation of these officers is governed by the general appropriations act.

~~§ 14.1-156.1.~~

~~Repealed by Acts 1973, c. 545.~~

~~§ 14.1-157. Determination of population.~~

For the purposes of this article, the population of each county and city shall be as shown from time to time by the last decennial United States census report, but in any case in which it shall be shown to the satisfaction of the State Compensation Board that the adoption of such census report will result in an injustice to any officer, the State Compensation Board may accept an estimate of such population based upon evidence, satisfactory to the Board.

RATIONALE: Repeal. The substantive provisions of this section are covered by § 15.2-1636.11 (former § 14.1-61) dealing with the Compensation Board's use of population in fixing salaries.

~~§ 14.1-158 15.2-1636.6:1. Statement of receipts and expenses of officers.~~

The State Compensation Board shall as soon as practicable annually furnish the board of supervisors or other governing body of each county and city with the statement showing receipts and

expenses of office and of officers making report under this article.

RATIONALE: This section is being moved to Article 6.1, Chapter 16 of Title 15.2 which contains the establishment, powers, and duties of the Compensation Board.

~~§ 14.1-159. Where fees, salary, etc., do total less than \$2,500, officers mentioned in § 14.1-136.~~

The provisions of §§ 14.1-136 to 14.1-158 shall not apply to any officer mentioned in § 14.1-136 whose total of all fees, allowances, commissions, salary or other compensation or emolument of office from the Commonwealth or any political subdivision thereof, or from any other source whatever, did not amount to as much as \$2,500 for the calendar year for which the report is required, but every such officer shall within fifteen days after the close of each anniversary of the beginning of the term of his office, file with the Comptroller a statement under oath, on forms prescribed by the Comptroller, certifying that the total gross compensation of such officer did not equal or exceed the sum of \$2,500.

RATIONALE: Repeal. This section is obsolete.

~~§ 14.1-160. Same; certain officers mentioned in § 14.1-137.~~

The provisions of §§ 14.1-136 to 14.1-158 shall not apply to any officer mentioned in § 14.1-137, except a magistrate, whose total of all fees, allowances, commissions, salary or other compensation or emolument of office derived from the Commonwealth or any political subdivision thereof, or from any person or corporation, does not amount to as much as \$2,500 per calendar year for which the report is required, but every such officer, except a magistrate, shall, within fifteen days after the close of each anniversary of the beginning of the term of his office, file with the clerk of the circuit court of the county or of the city or the clerk of the circuit court of a city having no other court of record, under oath, a statement of the total amount of fees, allowances, commissions, salary or other compensation or emolument of office derived from the Commonwealth or any political subdivision thereof, or from any person or corporation, received by him during the calendar year ending December 31 next preceding, which affidavit shall remain on file in the clerk's office.

RATIONALE: Repeal. This section is obsolete.

~~§ 14.1-161 17.1-286. Disposition of state funds locally collected.~~

All state funds collected by county and city treasurers and clerks of courts shall be paid into the state treasury without deductions on account of their compensation or on account of expenses; and the Comptroller shall promptly forward to such officers his warrants on the State Treasurer for the compensation due them and the estimated amount allowed them out of such funds for expenses.

RATIONALE: The deleted provisions of this section are being moved to Article 7 (§ 15.2-1536 et seq.) of Chapter 15 of Title 15.2.

~~§ 15.2-1537.1. Disposition of state funds locally collected.~~

All state funds collected by the financial officer shall be paid into the state treasury without deductions on account of their compensation or on account of expenses. The Comptroller shall promptly forward to such officers his warrants on the State Treasurer for the compensation due them and the estimated amount allowed them out of such funds for expenses.

RATIONALE: This section is being added to Article 7 (§ 15.2-1536 et seq.) of Chapter 15 of Title 15.2 to govern the provisions of former § 14.1-161.

~~§ 14.1-162 17.1-290. Contracts by cities.~~

Subject to the approval of the State Compensation Board, the council of any city may enter into contracts with officers providing for salaries for the maximum amount allowed in §§ 14.1-143.2 and 14.1-156 § 17.1-287 and for the city's pro rata part of the expense of the office approved by the State Compensation Board, in lieu of fees and commissions prescribed by law for services performed for the city and such contracts may relieve the officer from collecting such fees and commissions. In the event such contract is entered into and approved by the State Compensation Board the officer and the city shall not be liable to the Commonwealth for the failure of such officer to collect fees and commissions prescribed by law for services rendered the city. A copy of every such contract, certified by the clerk of the city council, shall be filed with the Comptroller.

RATIONALE: No change other than appropriate citation changes.

~~§ 14.1-163 17.1-291. Penalty for officers.~~

Any officer failing to comply with the duties imposed upon him by the provisions of §§ 14.1-136 to 14.1-162 this article shall forfeit to the Commonwealth not less than \$25 nor more than \$500 for

each such failure, such forfeiture to be enforced by the attorney for the Commonwealth in the circuit, ~~hustings or corporation~~ court having criminal jurisdiction in his city or county.

RATIONALE: No substantive change. Hustings and corporation court have been abolished and replaced with circuit courts.

~~§ 14.1-164.~~

~~Repealed by Acts 1970, c. 246.~~

~~§ 14.1-164.1. Allowances to county clerks.~~

~~The governing body of every county is empowered to determine what annual allowances, payable out of the county treasury, shall be made to the county clerk of such county not to exceed \$7,500. Nothing herein shall be construed to disallow in any manner the amounts heretofore provided and in effect on January 1, 1980.~~

RATIONALE: Repeal. This section refers to the clerks of the boards of supervisors, not to clerks of court. The compensation of such officers is governed by Title 15.2 (see § 15.2-1538).

~~§ 14.1-165. Allowance to clerks of circuit courts of certain cities.~~

~~The council of any city of the first class, having over 40,000 population and a separate clerk for the circuit court, may allow to the clerk of such court such sums, not exceeding the sum of \$1,200 per annum, payable out of the treasury of the city as may be approved by such council.~~

RATIONALE: Repeal. This section is obsolete.

~~§§ 14.1-166, 14.1-167.~~

~~Repealed by Acts 1982, c. 589.~~

~~§ 14.1-168. Fee records.~~

~~Every officer to whom §§ 14.1-31, 14.1-105, 14.1-112, 14.1-120 and 14.1-133 apply shall keep a fee record, wherein shall be entered the fees for every service performed by him and the fact of such fees being paid, or of a bill being made out therefor, whichever shall happen first. The fee records of a clerk shall be submitted to the inspection of the commissioners appointed to examine the clerk's office.~~

RATIONALE: Repeal. The officers no longer record in the fee records and the collection of such fees are no longer examined by appointed commissioners, but by the Auditor of Public Accounts. The following sections are repealed for the same reason.

~~§ 14.1-169. Fee bills; security for fees.~~

~~No person shall be compelled to pay any fees before mentioned for services already performed until there be produced to him a fee bill signed by the officer to whom the fees are due, expressing the particulars for which such fees are charged; nor shall such officer be compelled to perform any service unless his fees, if demanded, be paid or tendered or otherwise satisfactorily secured him, except in criminal cases and in the case of persons suing as provided by § 14.1-183, or unless performance of such services be directed by a court. And when bills are made out for services to be performed there shall be mentioned the nature of the service and the fact that it is to be performed.~~

RATIONALE: Repeal.

~~§ 14.1-170. Excessive or improper fees.~~

~~No officer shall for any service make out a fee bill for more than is allowed therefor or charge full fees to more than one party for the same service, but in such case the payment of the fees by any party shall be a satisfaction for such service; provided, however, that this section shall not be applicable to notaries public.~~

RATIONALE: Repeal.

~~§ 14.1-171. Violation of § 14.1-169 or § 14.1-170.~~

~~If any officer violate any of the provisions of §§ 14.1-169 and 14.1-170 he shall forfeit five dollars to any person prosecuting therefor. The circuit court of a county or the circuit or city court of a city in which an officer resides may, on motion after reasonable notice to him, quash any fee bill made out by him contrary to law.~~

RATIONALE: Repeal.

~~§ 14.1-172. By whom and how fee bills made out for fees due deceased clerk.~~

~~When a clerk dies, his successor shall charge, in the fee books of the clerk's office, such lawful fees as do not appear to have been charged therein for services performed by the decedent and make out fee bills for such fees and also for any fees charged on such books by the decedent for which he~~

does not appear to have made out fee bills in his lifetime; except that such of these as appear to the successor to be for more than is allowed by law shall be reduced by him so far as, in his judgment, is necessary to make them legal.

RATIONALE: Repeal.

~~§ 14.1-173. Form of such bills; payment for issuance.~~

The fee bills made out under ~~§ 14.1-172~~ shall show on their face that they are for fees due the decedent and shall be signed by his successor and delivered to the personal representative of such decedent as soon as practicable. Such successor shall receive for his services under this and the preceding section such compensation as the court, whereof he is clerk, shall adjudge to be reasonable, which shall be paid by the personal representative or by the officer who may collect such fee bills, out of the first proceeds of such collection.

RATIONALE: Repeal.

~~§ 14.1-174. Collection of fee bills by sheriff or high constable.~~

Any officer mentioned in this chapter or personal representative of a deceased clerk may deliver fee bills duly signed within two years from the time such fee bills became due to any sheriff in any magisterial district or high constable of any city, who shall receive and endeavor to collect the same. Such sheriff or high constable may distrain for such fee bills, and the sheriff for any fee bills due to him, such property of the person to whom the fee bills are charged as might be levied on under a writ of fieri facias against him; and ~~§ 58.1-3952~~ shall apply to such fee bills in like manner as to taxes.

RATIONALE: Repeal.

~~§ 14.1-175. Accounting for such collections; remedy in case of failure to account.~~

Every sheriff or high constable to whom such fee bills are so delivered shall, within twelve months after such delivery, account therefor with the officer or personal representative entitled thereto by returning such as he may not have collected, with an endorsement thereon that the person charged with the fees has no estate in his county or corporation out of which the same could be made and by paying to such officer or personal representative the amount of all not so returned, deducting a commission for himself of ten per centum on such amount. If he fails so to do, judgment may be obtained on motion against him and his sureties or his and their personal representatives or, if he be a sheriff, against any deputy who may have signed the receipt for the fee bills and his sureties or his and their personal representatives for the amount with which such sheriff or high constable is chargeable and damages thereon not exceeding fifteen per centum per annum from the expiration of such period of twelve months. Such judgment may be, on motion, after notice, in the circuit court of the county or the circuit or city court of the city wherein such sheriff or high constable resides.

RATIONALE: Repeal.

~~§ 14.1-176. Within what time fee bills may be collected.~~

No fee bill shall be collected by distress, warrant or suit after five years from the end of the year in which the service was performed that is charged therein, unless within five years before the institution of such proceedings it was returned by an officer, with such endorsement thereon, properly dated, as is mentioned in ~~§ 14.1-175~~; and, after five years from the date of such endorsement first made, no fee bill shall be collected by distress, warrant or suit.

RATIONALE: Repeal. This entire article is obsolete because fee bills are no longer issued by officers.

(Title 17.1)

Chapter 6.

Costs Generally.

~~§ 14.1-177 17.1-600.~~ Laws of costs not penal; discretion of courts of equity.

The laws of costs shall not be interpreted as penal laws; nor shall anything in this chapter take away or abridge the discretion of a court of equity over the subject of costs, except as provided in ~~§ 14.1-181 17.1-604.~~

RATIONALE: Chapter 3 (§§ 14.1-177 through 14.1-201) of Title 14.1 addresses court costs and the entire chapter was renumbered and added to new Title 17.1 as Chapter 6 (§§ 17.1-600 through 17.1-629).

~~§ 14.1-178 17.1-601.~~ General rule as to recovery of costs on final judgment.

Except when it is otherwise provided, the party for whom final judgment is given in an action or motion, ~~whether he be plaintiff or defendant,~~ shall recover his costs against the opposite party; ~~and when.~~ When the action is against two or more and there is a judgment for, or discontinuance as to, some, but not all of the defendants, unless the court enter of record that there was reasonable cause for making defendants those for whom there is such judgment, or as to whom there is such discontinuance and shall order otherwise, they shall recover their costs.

RATIONALE: The deleted phrase seems obvious and therefore unnecessary. The second change was done only for ease in reading.

§ ~~14.1-179~~ 17.1-602. When successful plaintiff not to recover costs.

In any personal action not on contract, if a verdict ~~be found~~ is returned for the plaintiff, on an issue or otherwise, for less damages than ten dollars, he shall not recover in respect to such verdict any costs, unless the court enter of record that the object of the action was to try a right, besides the mere right to recover damages for the trespass or grievance in respect to which the action was brought, or that the trespass or grievance was willful or malicious.

RATIONALE: Language changed to read more clearly.

§ ~~14.1-180~~ 17.1-603. Costs when suit is in name of one person for another.

When a suit is in the name of one person for the benefit of any other, if ~~there be~~ judgment is entered for the defendant's costs, it shall be against such other.

RATIONALE: Language changed to read more clearly.

§ ~~14.1-181~~ 17.1-604. Costs in appellate courts.

In every case in the Supreme Court or the Court of Appeals, costs shall be recovered in such court by the party substantially prevailing.

RATIONALE: No change.

§ ~~14.1-182~~ 17.1-605. Same; printing or otherwise reproducing brief and appendix.

Any party in whose favor costs are allowed in the Supreme Court shall have taxed as part of the costs the actual cost incurred by him in printing or otherwise any brief filed with the Court, not to exceed \$200 for all briefs filed and the actual cost incurred by him in printing or otherwise reproducing the appendix containing parts of the record filed with the Court, except that the Court for good cause may direct that such party shall recover less than the entire cost incurred by him in printing or otherwise reproducing (i) briefs filed by him (even though less than \$200) or ~~less than the entire cost incurred by him in printing or otherwise reproducing~~ (ii) the appendix.

RATIONALE: Redundant language deleted.

§ ~~14.1-183~~ 17.1-606. Persons allowed services without fees or costs.

Any person, who is a resident of this Commonwealth, ~~who,~~ and on account of his poverty is unable to pay fees or costs may be allowed by a court to sue or defend a suit therein, without paying fees or costs; whereupon he shall have, from any counsel whom the court may assign him, and from all officers, all needful services and process, without any fees ~~to them therefor,~~ except what may be included in the costs recovered from the opposite party.

RATIONALE: Redundant language deleted and changed to read more clearly.

§ ~~14.1-185~~ 17.1-607. Security for costs upon suit by nonresident.

In any suit or action, except when ~~such poor person~~ an indigent is plaintiff, there may be a suggestion on the record in court, or, if the case be at rules, on the rule docket, by a defendant, or any officer of the court, that the plaintiff is not a resident of this Commonwealth and the security is required of him. After sixty days from such suggestion, the suit or action shall, by order of the court, be dismissed, unless, before the ~~dismissal~~ dismissal, ~~the plaintiff be proved to be~~ it is proven that plaintiff is a resident of the Commonwealth or security be given before the court, or ~~the~~ its clerk ~~thereof,~~ for the payment of the costs and damages in the court in which the suit or action is instituted which may be awarded to the defendant, and of the fees due, or to become due, in such suit or action to the officers of the court. The security shall be by bond, payable to the Commonwealth, but there need only be one obligor therein, if he be sufficient and a resident of the Commonwealth. The court before whom, or before whose clerk, such bond is given, may, on motion by a defendant or officer, give judgment for so much as he is entitled to by virtue of such bond.

RATIONALE: Language changed to read more clearly.

§ ~~14.1-186~~ 17.1-608. How obligor in such bond may obtain indemnity.

On the motion of an obligor in such bond, after reasonable notice to the plaintiff, his attorney-at-law or agent, the court may order bond to be given, with sufficient surety, in a penalty equal to the penalty of the former bond, payable to the applicant and with condition to indemnify and save harmless the applicant against all loss or damage, in consequence of executing the former bond. If the bond required under this section ~~be~~ is not given within such time as the court may prescribe, it may order the suit to be dismissed.

RATIONALE: Language changed to read more clearly.

§ ~~14.1-187~~ 17.1-609. Costs on certain motions and interlocutory orders.

Upon any motion, other than for a judgment for money, or upon any interlocutory order or proceeding, the court may give or refuse costs, at its discretion, unless ~~it be~~ otherwise provided. It may, when a demurrer is sustained to a plea in abatement, give judgment for the plaintiff for his full costs, to the time of sustaining it, an attorney's fee only excepted; and when any other part of the pleading is adjudged insufficient, order all costs occasioned by such insufficient pleading to be paid by him who committed the fault.

RATIONALE: Language changed to read more clearly.

§ ~~14.1-188~~ 17.1-610. Payment of costs when new trial granted.

The party to whom a new trial is granted shall, prior to such new trial, pay the costs of the former trial, unless the court enter that the new trial is granted for misconduct of the opposite party, who, in such case, may be ordered to pay any costs which seem to the court reasonable. Such costs shall include the allowances to witnesses as provided in § ~~14.1-190~~ 17.1-712. If the party who is to pay the costs of the former trial ~~fail~~ fails to pay the same at or before the next term after the new trial is granted, the court may, on the motion of the opposite party, set aside the order granting it, and proceed to judgment on the verdict or award execution for the costs, ~~as may seem to it whichever seems best.~~

RATIONALE: Language changed to read more clearly.

§ ~~14.1-189~~ 17.1-611. Allowances to witnesses for Commonwealth.

All witnesses summoned for the Commonwealth shall be entitled to receive for each day's attendance all necessary ~~ferriage and~~ tolls, and such reimbursement for his daily mileage as prescribed in § ~~14.1-5~~ 2.1-20.8. All allowances to witnesses summoned on behalf of the Commonwealth shall be paid by the treasurer of the county or corporation in which the trial is ~~had~~ held or in which the grand jury is summoned and the amount so paid by such treasurer shall be refunded to him out of the state treasury, on a certificate of the clerk of the court in which the trial was ~~had~~ held or before which the grand jury was summoned.

RATIONALE: Language changed to read more clearly. The term "tolls" covers "ferriage."

§ ~~14.1-190~~ 17.1-612. Allowances to other witnesses.

A person attending as a witness under a summons not covered by § ~~14.1-189~~ 17.1-611, whether he ~~be~~ is a witness from within or without the Commonwealth, shall be reimbursed for his daily mileage as prescribed in § ~~14.1-5~~ 2.1-20.8, and expenses for the tolls ~~at the bridges and ferries which he crosses or turnpike gates he may pass.~~ On his oath an entry of the sum he is entitled to and for what and by what party it is to be paid shall be made: ~~(1) when the attendance is before either house or a committee of the General Assembly (i) by the clerk of such either house or a committee of the General Assembly when the attendance is before such house or committee and (2) (ii) in other cases by the clerk of the court in which the case is or the person before whom the witness attended except that when.~~ When the attendance was on behalf of the Commonwealth before a court, the entry shall be made upon the minutes of the court in which the case is ~~or to whose clerk the certificates mentioned in § 19.2-345 are transmitted~~ docketed. A witness from ~~without~~ outside the Commonwealth in any civil action may be allowed the same mileage and attendance fee as any other witness in any such action; ~~provided, that.~~ However, no ~~such~~ sums for attendance and mileage shall be allowed a witness from ~~without~~ outside the Commonwealth, in any civil action, unless the judge of the court ~~shall determine and certify such~~ determines and certifies that the witness ~~to be~~ is a material witness in the matter for which he appeared; ~~and the.~~ The court may allow such mileage and attendance fee or any portion thereof as the court may determine to be reasonable under the circumstances of the case. A witness summoned to attend in several cases may have the entry made against either of the parties by whom he is summoned, but no witness shall be allowed *reimbursement* for his attendance

in more than one case at the same time. Every witness who qualifies as an expert witness, when compelled to attend and testify, shall be allowed such compensation and mileage as the court may, if requested in its discretion, order without regard to any limitation *described above set forth*, but the same shall be paid by the party in whose behalf he shall testify.

RATIONALE: Language changed to read more clearly. Language regarding § 19.2-345 is deleted because the section has been repealed.

§ ~~14.1-191~~ 17.1-613. By whom and upon what certificate allowances to witnesses paid.

The sum to which a witness is entitled shall be paid out of the state treasury in any case of attendance before either house or a committee of the General Assembly and in any other case in which the attendance is for the Commonwealth except when it is otherwise specially provided. In all other cases it shall be paid by the party for whom the summons issued. The payment shall be on a certificate of the person required by § ~~14.1-190~~ 17.1-612 to make the entry or the clerk of the court in whose minutes the entry is made. The certificate shall express by letters and not by figures the separate amount to which the witness is entitled for his attendance, travelling, and tolls ~~and ferriages~~ which he may have to pay and the aggregate thereof. No clerk or other person authorized to make such entry or give such certificate shall become interested by purchase in any claim payable out of the state treasury which by law he is authorized to certify.

RATIONALE: Change indicates new Code section as a result of this recodification. The term "ferriages" is deleted since it is included in the term "tolls."

§ ~~14.1-192~~ 17.1-614. List of entries made on behalf of witnesses.

~~Such clerks~~ The clerk shall, immediately after the adjournment of any court, make out two lists of all entries made on behalf of witnesses attending for the Commonwealth, and certify one to the Supreme Court and the other to the county or city treasurer, to which lists shall be attached a certificate to the correctness of the allowances therein and the aggregate amount thereof signed by the judge of the court and by the clerk. Any dispute before or after issuing the certificate between the witness and the party against whom his claim is made as to its justice or amount may, when the case is in a court, be determined by such court. The Comptroller shall not issue a warrant for any claim allowed by a court to a witness unless it appears upon the list certified as herein provided, and, upon the payment of any such claim, the date of approval by the Supreme Court shall be noted on such list.

RATIONALE: No substantive change. Amendments have been made for ease of reading.

§ ~~14.1-193~~ 17.1-615. Time within which witnesses may be paid out of state treasury.

No payment out of the state treasury shall be made to witnesses unless their claims are presented within two years from the time of rendering the service.

RATIONALE: No change.

§ ~~14.1-194~~ 17.1-616. Restriction of costs for witnesses generally; when entry for witness not allowed.

The court may restrict the taxation in the costs for witnesses to so many as may be deemed just. No entry for a witness shall be made against a party recovering costs, after execution has issued for such party; ~~and in~~. In no case shall there be an entry of a witness for attendance at a term, after sixty days from the end of such term.

RATIONALE: No substantive change.

§ ~~14.1-195~~ 17.1-617. Number of witnesses paid fees in criminal cases.

Not more than the maximum number of witnesses provided for herein shall be paid out of the state treasury in criminal cases:

~~The maximum number that may be recognized by any justice of the peace to go before the grand jury in any one case - three.~~

The maximum number that may be (i) caused to be summoned by an attorney for the Commonwealth in any one case to go before a grand jury - five-;

~~The maximum number that may be (ii) used before a court not of record in the trial of any criminal case - five-;~~ and

~~The maximum number that may be (iii) caused to be summoned by an attorney for the Commonwealth for the trial of any criminal case - ten.~~

~~Provided, that nothing~~ Nothing herein shall be construed to limit (i) the number of witnesses that

may be authorized by any court or the judge thereof ~~in vacation~~ to be used when the necessity for additional witnesses is ~~made to appear~~ *appears* to the court or the judge thereof and the consent of the court or the judge thereof ~~in vacation~~ is first obtained, or to ~~limit (ii)~~ the number of witnesses that a grand jury may of its own motion ~~cause to be summoned~~ *summon*.

RATIONALE: Editorial changes. The language has been amended for ease of reading. The language dealing with justices of the peace is being repealed since that office has been abolished. Reference to judges "in vacation" has been deleted as obsolete.

§ ~~14.1-195.1~~ 17.1-618. Allowances for jurors; expenses of keeping jury together; fees of jury commissioners and commissioner in chancery for drawing of juries.

Every person summoned as a juror in a civil or criminal case shall be entitled to thirty dollars for each day of attendance upon the court for expenses of travel incident to jury service and other necessary and reasonable costs as the court may direct. Jurors summoned from another political subdivision pursuant to § 8.01-363 may be allowed by the court, in addition to the above allowance, their actual expenses. When kept together overnight under the supervision of the court, the jurors and the sheriff or his deputies ~~so~~ keeping the jury shall be furnished suitable board and lodging. Reimbursement for board and lodging shall be set by the judge in an amount not to exceed the amount authorized by travel regulations promulgated pursuant to § ~~14.1-5~~ 2.1-20.8. Allowances and other costs will be allowed a juror in only one case the same day.

Every person serving as a jury commissioner and every person serving as a commissioner in chancery for the drawing of juries for a circuit court of this Commonwealth may be allowed, by the court appointing him, a fee not exceeding thirty dollars per day for the time actually engaged in such work and such other necessary and reasonable costs as the court may direct.

RATIONALE: Cite change due to recodification.

§ ~~14.1-195.2~~ 17.1-619. How jurors paid.

A. The compensation and allowances of persons attending the court as jurors in all felony cases shall be paid by the Commonwealth; ~~jurors~~. Jurors in misdemeanor cases shall be paid by the Commonwealth unless the charge is written on a local warrant or summons, in which case the jurors shall be paid by the political subdivision in which the summons is issued. Jurors in all civil cases shall be paid by the political subdivision in which the summons is issued. Payment in all cases shall be by negotiable check, or warrant, upon the Commonwealth, or the political subdivision, as the case may be.

When, during the same day any juror is entitled to compensation from both the Commonwealth and from the political subdivision in which he has served, the court shall divide the pay for such day between the Commonwealth and the political subdivision; ~~and it~~. It shall be the duty of the sheriff at the term of the court during which an allowance is made or has been made under this section, to furnish the clerk of the court with a statement showing the number and names of the jurors in attendance upon the court.

B. A county or city may provide by local ordinance that a juror may direct in writing that compensation due him be paid to the court service unit or to any other agency, authority or organization which is ancillary to and provides services to the courts of the county or city.

RATIONALE: No substantive change.

§ ~~14.1-195.3~~ 17.1-620. When juror not entitled to compensation.

No person shall be entitled to receive any compensation for service as a juror if he ~~shall depart~~ *departs* without the leave of the court, or, being summoned as a witness for the Commonwealth, ~~shall charge~~ *charges* for his attendance as such.

RATIONALE: No substantive change.

§ ~~14.1-195.4~~ 17.1-621. Clerk to make entry on minutes stating amount due and by whom payable.

The clerk of any court in which juries are impaneled shall, before its final adjournment at each term, and under the direction of the court, make an entry upon its minutes stating the amount to which each juror is entitled for his services or attendance during the term, and specifying how much is payable by the Commonwealth, and how much by the political subdivision.

RATIONALE: No change.

§ ~~14.1-195.5~~ 17.1-622. Clerk to transmit orders making allowances to Supreme Court, treasurer and jurors.

Such clerk shall immediately, after the adjournment of the court, transmit to the Supreme Court a list of all orders under ~~§ 14.1-195.4~~ 17.1-621 making allowances against the Commonwealth, and to the treasurer of the political subdivision a list of all such orders making allowances against the political subdivision, with a certificate to the correctness of the list and the aggregate amount thereof annexed thereto and signed by the judge of the court and himself, and such clerk shall also deliver to each juror copies of any orders making an allowance to him, whether the same be payable by the Commonwealth or by the political subdivision.

RATIONALE: Cite change as a result of this recodification.

~~§ 14.1-195.6~~ 17.1-623. Payment of allowances.

The treasurer of such political subdivision shall upon demand pay to such juror the amount allowed him by negotiable check, which shall be repaid to such treasurer out of the public treasury or out of the political subdivision levy, as the case may be, upon the production of satisfactory proof that the same has been actually paid by him. But such treasurer shall not be repaid any allowance made against the Commonwealth unless it appear on the list directed to be sent to the Supreme Court. No such allowance shall be paid unless presented within two years from the time of rendering the service.

RATIONALE: No change.

~~§ 14.1-196~~ 17.1-624. Who to tax costs; what included for attorney's fee.

The clerk of the court wherein any party recovers costs shall tax the same. He shall include therein for the fee of such party's attorney, if he has one:

- ~~(1)~~-1. In a case of the Commonwealth, if no higher fee is allowed\$ 5.00
- ~~(2)~~-2. In a chancery cause other than a motion, when the matter in controversy exceeds \$100 in amount or value 15.00
- ~~(2a)~~-3. In the Court of Appeals 50.00
- ~~(3)~~-4. In the Supreme Court 50.00

~~But in~~ In no case shall more than one fee be taxed against the same party, unless the court otherwise directs.

RATIONALE: Editorial change.

~~§ 14.1-197~~ 17.1-625. Fee of one attorney only to be taxed.

Although the party recovering may have had more than one attorney, only the fees of one shall be taxed in the same court.

RATIONALE: No change.

~~§ 14.1-198~~ 17.1-626. Other items to be taxed in costs.

The clerk shall tax in the costs all taxes on process, and all fees of officers which the party appears to be chargeable with in the case wherein the recovery is, except that when in any court, on the same side, more than one copy of anything is obtained or taken out, there shall be taxed only the fee for one copy of the same thing. He shall also tax the costs of executing any order of publication made in the case for such party and of any advertisement from him in the case, made in pursuance of law, allowing the amount charged by the publisher, provided such publisher shall file with his certificate of publication or account a printed copy of his fixed rates of advertising, and his charge shall not exceed them, and the allowances to his witnesses, and every further sum which the court may deem reasonable and direct to be taxed for depositions taken out of the Commonwealth, or for any other matter.

RATIONALE: No change.

~~§ 14.1-199~~ 17.1-627. Premium on indemnifying bond taxed as costs.

In case of any attachment or any levy pursuant to a judgment, where the attaching or judgment creditor is required to give bond to indemnify and save harmless the officer executing such attachment or levy, the clerk shall tax in the costs of the proceeding wherein such attachment is had or judgment is entered the reasonable cost of such bond, such costs to be recovered as provided in ~~§ 14.1-178~~ 17.1-601.

RATIONALE: Cite change as a result of this recodification.

~~§ 14.1-200~~ 17.1-628. Judgment or decree for costs on behalf of Commonwealth; costs to be paid

into state treasury.

In a case wherein there is judgment or decree on behalf of the Commonwealth for costs, there shall be taxed in the costs the charge actually incurred to give any notice, although it be more than fifty cents; and the fees of attorneys and other officers for services, and allowances for attendance, as if such fees and allowances were payable out of the state treasury. What is so taxed for fees of, or allowance to, any person, shall be paid by the sheriff or officer who may receive such costs into the state treasury.

RATIONALE: No change.

§ ~~14.1-201~~ 17.1-629. No judgment for costs against Commonwealth; exception.

In no case, civil or criminal, except when otherwise specially provided, shall there be a judgment for costs against the Commonwealth.

RATIONALE: No change.

Chapter 1.
General Provisions.

§ 17.1-100. *Reserved.*

§ ~~17-1~~ 17.1-516. Jurisdiction of courts of counties and cities over certain waters.

Where any river, watercourse, or bay lies between any counties or any cities, or any county and city in this Commonwealth, the circuit courts for the counties and the cities, on each side, respectively, shall have concurrent territorial jurisdiction over so much thereof as shall be opposite to such counties and cities. And the circuit courts for counties and cities lying on the waters bounding the Commonwealth shall have concurrent territorial jurisdiction respectively over such waters opposite such counties and cities, as far as the jurisdiction of this Commonwealth extends; ~~provided, that this.~~ *This section shall not apply to the Cities of Richmond and Norfolk.*

RATIONALE: Editorial changes only.

§ ~~17-2~~ 17.1-101. Time within which a judge may qualify; failure to ~~do so~~ vacates office.

Any judge of this Commonwealth may qualify at any time after receiving his commission and before the expiration of thirty days after the commencement of his term of office; ~~but if he fail to.~~ *If any judge does not receive his commission until after the commencement of his term of office he may qualify within thirty days from the date of receiving the same. ~~A~~ The failure on the part of any judge to qualify as above provided within these time limits shall vacate his office.*

RATIONALE: Editorial changes only.

§ ~~17-3-1~~ 17.1-102. Justices and judges not permitted to practice law or seek or hold elective or other office.

No justice or judge of a court of record shall, during his continuance in office, engage in the practice of law within or without the Commonwealth, or seek or accept any nonjudicial elective office, or hold any other office of public trust, or engage in any other incompatible activity.

RATIONALE: Judges are not allowed to hold other offices. There is no need to distinguish here between appellate and trial court judges and those in the lower courts.

§ ~~17-5~~ 17.1-103. Residence requirements of judges.

Each judge of a trial circuit court of record shall, during his term of office, reside within the jurisdiction of one of the courts circuit to which he was appointed or elected and his removal therefrom shall vacate his office; ~~but whenever any such judge resides within the area in which his court has criminal jurisdiction he shall be deemed to be residing within the jurisdiction of such court; provided, however, that where.~~ *Where the boundary of the jurisdiction of a court is changed by annexation or otherwise, no a judge thereof shall thereby not become disqualified from office or ineligible for reelection if, except for such annexation or change, he would otherwise be qualified.*

RATIONALE: The language concerning criminal jurisdiction has been removed as unnecessary, and the remaining language has been updated.

§ ~~17-6~~ 17.1-104. In election by court, votes to be recorded.

In every appointment or election by a court to fill any office or post, the votes shall be made in writing and recorded in the order or minute book.

RATIONALE: No change.

§ ~~17-7~~ 17.1-105. Designation of judges to hold courts and assist other judges.

(1) ~~Absence, etc.~~ *A. If a judge of any court of record be is absent or be unable through sickness or other disability, or, sick or disabled or for any other reason unable to hold any regular or special term of the court, or any part thereof, or to perform or discharge any official duty or function authorized or required by law, a judge or retired judge of any other court of record or a retired judge of any such court may be obtained by personal request of the disabled judge, or another judge of the circuit to hold the court for the whole or any part of such regular or special term or for any part thereof and to discharge during vacation such duty or function, or, if the circumstances require, to perform all the duties and exercise all the powers and jurisdiction as judges of such circuit until the judge shall is again be able to attend his duties as such.* The designation of such judge shall be entered in the common-law order book of the court, and a copy thereof sent to the Chief Justice of the Supreme Court. The Chief Justice shall be notified forthwith at the time any disabled judge is able to return to his duties.

(2) ~~Interest, etc.~~ *B. If all the judges of any court of record are so situated in respect to any case, civil or criminal, pending in their court as to render it improper, in their opinion, for them to preside at the trial, unless the cause or proceeding is removed, as provided by law, they shall enter the fact of record and the clerk of the court shall at once certify the same to the Chief Justice of the Supreme Court, who shall designate a judge of some other court of record or a retired judge of any such court*

to preside at the trial of such case.

~~(3) [Repealed.]~~

~~(4) Vacancy.~~ C. If a vacancy ~~occur from any cause~~ occurs in the office of a judge of a court of record that fact shall ~~at once~~ be immediately certified by the clerk of such court to the Governor, who may, instead of appointing a successor at once, request the Chief Justice ~~of the Supreme Court~~ to designate a judge of some other court of record or a retired judge of any such court to carry out the duties of the office, if it is ~~made to appear that~~ there are insufficient judges in the circuit to carry out the work of the court, until the office ~~shall have~~ has been filled in the mode prescribed by law. If any judge so designated shall be prevented by the duties of his court, or by sickness, from performing the duties required, he shall so inform the ~~Governor~~ Chief Justice, who may ~~thereupon request the Chief Justice of the Supreme Court to~~ designate another ~~such~~ judge in his place.

~~(5) Congestion.~~ If on account of D. Due to congestion in the work of any court of record ~~there is in his opinion need therefor~~, the Chief Justice ~~of the Supreme Court~~ may, upon his own initiative or upon application of the judge desiring assistance, designate ~~the a judge or retired judge~~ of any court of record ~~or a retired judge of a court of record~~ to assist the judge in the performance of his duties and every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as the judge whom he is designated to assist.

~~(6) Expenses.~~ E. Any judge or retired judge sitting under any provision of this section or sitting by designation on any three-judge court shall receive from the state treasury actual expenses for the time he is actually engaged in holding court, except in those cases where the payment of such expenses is otherwise specifically provided by law.

~~(7) [Repealed.]~~

~~(8) Exercise of powers of Chief Justice by other Justices.~~ F. The powers and duties herein conferred and imposed upon the Chief Justice ~~of the Supreme Court~~ may be exercised and performed by any ~~Justice~~ justice, or any committee of ~~Justices~~ justices, of the Court, designated by the Chief Justice for such purpose.

~~(9) G.~~ If the chief judge of any circuit ~~he is~~ unable to perform the duties required by law, he shall notify the Chief Justice ~~of the Supreme Court~~, who shall designate another judge of the same circuit to perform such duties.

~~(10) H.~~ If any judge refuses unreasonably to serve as requested under the provisions of this section, the chief judge may report his refusal to the Judicial Inquiry and Review Commission.

RATIONALE: Reference to notifying the Governor who then requests the Chief Justice to appoint a subsequent judge designate is stricken because such process seems unwieldy.

~~§ 17-7-01~~ 17.1-106. Temporary recall of retired judges.

A. The Chief Justice of the Supreme Court may call upon and authorize any justice or judge of a court of record who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) either to (i) hear a specific case or cases pursuant to the provisions of ~~§ 17-7, 17.1-105~~ such designation to continue in effect for the duration of the case or cases or (ii) perform for a period of time not to exceed ninety days at any one time, such judicial duties in any court of record as the Chief Justice shall deem in the public interest for the expeditious disposition of the business of the courts of record.

B. It shall be the obligation of any retired judge or justice who is recalled to temporary service under this section and who has not attained age seventy to accept the recall and perform the duties assigned. It shall be within the discretion of any justice or judge who has attained age seventy to accept such recall.

C. Any justice or judge recalled to duty under this section shall have all the powers, duties, and privileges attendant on the position he is recalled to serve.

D. A retired justice of the Supreme Court or judge of the Court of Appeals recalled to active service shall be furnished an office, office supplies, and stenographer while performing such active service.

RATIONALE: No change.

~~§ 17-7-1~~ 17.1-107. Designation of judge to assist regular judge holding case under advisement for unreasonable length of time.

~~(a) A.~~ Whenever the Chief Justice of the Supreme Court, or any ~~Justice~~ justice designated by him ~~so to act~~, has reasonable cause to believe that any judge of a court of record may be holding one or

more civil cases under advisement for an unreasonable length of time, he shall inquire into the cause of such delay, and if he, ~~or his designate, shall find~~ finds it necessary, in order to expedite the administration of justice, he shall designate a judge or retired judge, of a court of record, to assist the regular judge in the performance of his duties.

~~(b)~~ B. Complaints made hereunder shall be absolutely privileged, and the name of the complainant shall not be disclosed without his consent.

RATIONALE: Editorial changes.

§ ~~17-7.2~~ 17.1-108. (Delayed effective date - See note) Designation of circuit court judges to assist family court judges.

The Chief Justice of the Supreme Court may designate a circuit court judge to assist a family court judge in the performance of his duties if on account of congestion in the work of any family court there is in his opinion need therefor. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as the judges of the family court. However, only circuit court judges who have voluntarily consented and expressed their intent to so serve in accordance with the provisions of § 16.1-69.35 (8) shall be designated by the Chief Justice. ~~The compensation or~~ expenses paid to any judge designated pursuant to this section shall be in accordance with the provisions of § ~~17-7~~ (6) 17.1-105 E.

RATIONALE: The term "compensation" is stricken here since there is no provision for paying compensation under the cited section. The designated judge receives his regular salary and any expenses, as provided.

§ ~~17-8~~ 17.1-109. (Effective until June 1, 1998) Judges pro tempore.

Any cause pending in a circuit ~~or city~~ court, when the judge of the court is disqualified or unable, for any reason, to try the same, may be tried by a judge pro tempore, who shall be a citizen of this Commonwealth and shall ~~have qualified~~ be licensed to practice law in ~~the Supreme Court~~ of this Commonwealth.

RATIONALE: Language updated.

§ ~~17-8~~ 17.1-109. (Effective June 1, 1998) Judges pro tempore.

Any cause pending in a circuit or family court, when the judge of the court is disqualified or unable, for any reason, to try the same, may be tried by a judge pro tempore, who shall be a citizen of this Commonwealth and shall ~~have qualified~~ be licensed to practice law in ~~the Supreme Court~~ of this Commonwealth.

RATIONALE: Language updated.

§ ~~17-9~~ 17.1-110. (Effective until June 1, 1998) Their appointment and powers.

When all the parties to any cause pending in a circuit court, or their attorneys of record, shall enter into a written stipulation, appointing a judge pro tempore for the trial of the cause and approved by a judge of said court in his discretion, and the person appointed shall take and subscribe an oath faithfully to try and determine the issues joined between the parties, the clerk of the court in which such action or suit is pending shall ~~attach together such record the~~ stipulation and oath ~~and place them on file, and also record them at length upon the minutes of the court; whereupon, the~~ . The person appointed shall be vested with the same power and authority and shall be charged with the same duties as to the cause in and as to which he is appointed as though he were the regularly elected and qualified judge of such court; ~~but~~ However, the parties may, by the terms of their stipulation, limit the power of the judge pro tempore to the trial and determination of any specified issue or issues, either of law or fact and in such cases the oath of the person appointed shall correspond to the terms of the stipulation.

The provisions of this and § ~~17-8~~ 17.1-109 shall be in addition to the provisions of § ~~17-7~~ 17.1-105.

RATIONALE: Language updated.

§ ~~17-9~~ 17.1-110. (Effective June 1, 1998) Their appointment and powers.

When all the parties to any cause pending in a circuit court or family court, or their attorneys of record, enter into a written stipulation, appointing a judge pro tempore for the trial of the cause and approved by a judge of said court in his discretion, and the person appointed shall take and subscribe an oath faithfully to try and determine the issues joined between the parties, the clerk of the court in which the action or suit is pending shall record the stipulation and oath. The person thereby appointed

shall be vested with the same power and authority and shall be charged with the same duties as to the cause in and as to which he is appointed as though he were the regularly elected and qualified judge of such court. However, the parties may, by the terms of their stipulation, limit the power of the judge pro tempore to the trial and determination of any specified issue or issues, either of law or fact and in such cases, the oath of the person appointed shall correspond to the terms of the stipulation.

The provisions of this and ~~§ 47-8~~ 17.1-109 shall be in addition to the provisions of ~~§ 47-7~~ 17.1-105.

RATIONALE: No change

~~§ 47-10~~ 17.1-111. Compensation.

Judges pro tempore shall serve without compensation from any public treasury, but it shall be lawful for the parties to agree upon and express in their written stipulation any mode or amount of compensation, together with any further agreement as to the taxing of the same as costs.

RATIONALE: No change

~~§ 47-12. When term of a court not to end on death of its judge.~~

~~The death of a judge of any court during a term thereof being held by another shall not put an end to the term, but it shall continue, notwithstanding such death, until ended in due course.~~

RATIONALE: Repeal. The provisions of this section are no longer necessary.

~~§ 47-13~~ 17.1-112. ~~Who attends a court~~ Sheriff to attend court as its officer.

Neither the Supreme Court nor the Court of Appeals shall be attended by any sheriff in the City of Richmond. In all other cases, the sheriff of the county or city in which any court is held shall attend it and act as its officer.

RATIONALE: No change.

~~§ 47-14~~ 17.1-113. Places of holding courts; certain orders and decrees entered elsewhere.

Every circuit court for any county or city shall be held at the courthouse of such county or city, except when some other place is prescribed by law or lawfully appointed; ~~provided, however, that~~ *However*, the judge of the circuit court of any county or city; ~~either in term or in vacation~~, may enter *any order or decree* at his home or office or elsewhere within his circuit ~~any order or decree~~.

RATIONALE: Language updated.

~~§ 47-14.1. Use of courtrooms in adjacent city by certain county circuit courts.~~

~~The circuit court for any county within a judicial circuit containing a city having a population of more than 200,000 and a county adjacent thereto having a population of more than 100,000 may utilize the circuit courtroom facilities of the adjacent city within such judicial circuit for holding court in civil proceedings whenever such utilization is deemed advisable in the discretion of the senior judge of such judicial circuit; provided, such city shall not be required to add to, enlarge or extend such courtroom facilities or services provided in connection with the use thereof.~~

RATIONALE: Repeal. The provisions of this section are no longer necessary.

~~§ 47-15~~ 17.1-114. When and how changed.

~~Whenever, in the opinion of a circuit court, or the judge thereof, the courthouse or other place wherein it is required to hold its session, cannot, or should not, from any cause, for any reason be occupied by it, or if the same shall be has been destroyed, or is being repaired, renovated, or enlarged by addition thereto, the court may hold its session at such places within the geographical limits of the same judicial circuit of which the said circuit court is a constituent part as the court may be appointed by its direct by an order, or by the warrant of the judge thereof in vacation, directed to its clerk. The court shall continue to hold its sessions in such other place until the courthouse or its lawful place of session can or should be thereafter occupied, or until another shall be has been built and fitted for its the court's occupation, or until such repairs, renovations or additions be have been completed, or until some other place be appointed is designated by the court. Except as provided in this section or as agreed to by all parties to an action, no session of a circuit court shall be held outside the geographical limits of the county or city of which it is the court.~~

RATIONALE: Rewritten for clarity. Provisions from former § 17-18 have been added. Also added is language allowing parties to agree to hold court outside of the county or city. This contemplates a judge being able to sign orders, hold hearings in another court within his circuit for the convenience of the parties and their counsel.

~~§ 47-16~~ 17.1-115. How order or warrant making change posted.

A copy of every order of court ~~or warrant~~ of a judge *issued* under ~~§ 17-15 17.1-114~~ shall, if practicable, be posted by the clerk of the court at the door of his office and at the courthouse door, and also at the place ~~so appointed~~ *where the court has designated that its session be held.*

RATIONALE: Rewritten for clarity.

~~§ 17-17 17.1-116.~~ Change of place or time for holding session of Supreme Court.

Whenever, by reason of the destruction, *possession by a public enemy, or infection with contagious disease* of any building in which the Supreme Court is ~~appointed~~ to be held, ~~or by reason of the place of session being in possession of a public enemy or infected with contagious disease,~~ it shall ~~seem~~ *seems necessary* to the ~~Governor~~ *necessary* Chief Justice, he shall, by proclamation, ~~appoint~~ *designate* a place at which ~~such court~~ *the Court* shall be held, so long as such reason may continue, and when the circumstances require it, may postpone the time for holding the ~~court~~ *Court*. *In the case of the destruction of the building, the place designated by the Chief Justice shall be within the same county, city or town as the destroyed building.* A copy of such ~~proclamation designation~~ shall be sent to the clerk and to each of the justices of ~~such court~~ *the Court* and published in some newspaper at the seat of government and near the regular place of session of ~~such court~~ *the Court*.

RATIONALE: Rewritten for clarity and to allow the Chief Justice to make the decision regarding the court's facilities as opposed to the Governor. Provisions from former § 17-18 have been added.

~~§ 17-18. Where court must be held; exceptions.~~

No such place of session for a circuit court shall be without the limits of the county or city of which it is the court, except as provided in §§ ~~17-14.1 and 17-15.~~ And when such place is appointed because of the destruction of the building in which the Supreme Court was held, the new place of session shall be within the same city or town with the old.

RATIONALE: Deleted. The provisions of this section have been moved to § 17.1-114 (former § 17-15) dealing with places for the circuit court to hold court and to § 17.1-116 (former § 17-17) for places for the Supreme Court to hold its sessions.

~~§ 17-19 17.1-117.~~ Certain acts of courts held at improper places confirmed.

When any court has at any time prior to June 13, 1919, been held at a place not authorized by law, in consequence of the destruction of the courthouse, or other unavoidable cause, the acts and proceedings of such court shall be as valid as if the court had been held at the proper place.

RATIONALE: No change.

~~§ 17-19.1 17.1-118.~~ Display of flags in courtrooms.

There shall be displayed inside each courtroom of a court of record in the cities and counties of the Commonwealth the flag of the United States of America and the flag of the Commonwealth of Virginia. The governing bodies of the respective counties and cities shall make provision for such display and may accept gifts or flags for such purpose.

RATIONALE: No change.

~~§ 17-20. Rooms, books, etc., for court and clerk.~~

Chapter 402 of the Acts of 1930, approved March 25, 1930, relating to providing rooms, books, etc., for courts of record and clerks' offices in cities having a population of 170,000 or more by the United States census of 1920, is continued in effect.

RATIONALE: Repeal. Other provisions of the Code make it clear that localities are to provide the courts with facilities and supplies.

~~§ 17-24 17.1-119.~~ Courts may adjourn for a period not exceeding thirty days.

Any court of record may at any term, whether regular or special, adjourn from time to time for a period not exceeding thirty days until the business before it is dispatched, or until the end of its term; ~~the.~~ *The* judge of the court shall, during the period of such adjournment, have *the* power and authority to hold regular or special terms at any other place as if there had been a final adjournment of such term.

RATIONALE: Editorial changes.

~~§ 17-22. When court opened subsequent to first day of term.~~

Though a court be not held on the first day of a term, it may nevertheless be opened on any subsequent day, if, in the case of a circuit court, the same is done before 4:00 in the afternoon of the

~~third day.~~

RATIONALE: Repealed. Reference to circuit courts opening after term commences is unnecessary (See § 8.01-445).

§ ~~17-23~~ 17.1-120. Adjournment from day to day; effect of failure to sit on day to which adjourned.

After a court is opened it shall, during the term, adjourn from day to day, unless the court shall order otherwise, and if it fails to sit on any day to which it is adjourned it may nevertheless sit on any subsequent day of the term.

RATIONALE: No change.

§ ~~17-24~~ 17.1-121. Effect of change of time or place of court or failure to sit generally.

When the place for holding any court or the day for commencing any term is changed or when a court fails to sit on any day appointed for it or to which it may have adjourned there shall be no discontinuance, but every notice, recognizance or process given, taken or returnable to the day on which the failure occurred, or to any day between that day and the next that the court may sit, or to the day and place as it was before such change, and all matters ready for the court to act upon if it had been held on any such day shall be in the same condition and have the same effect as if given, taken, returnable, or continued to the substituted term or place, or to the next day of the same term that the court may sit, or to the next court in course, as the case may be.

RATIONALE: No change.

§ ~~17-25~~ 17.1-122. Matters not determined to stand continued.

All causes ~~upon~~ on the docket of any court and all other matters ready for its decision which ~~shall~~ have not ~~have~~ been determined before the end of a term, whether regular or special, shall, without any order of continuance, stand continued to the next term.

RATIONALE: Editorial changes.

§ ~~17-26~~ Trial continuing after end of term; extension of term.

If the term of a court is to end pending the trial therein of any case, civil or criminal, it shall nevertheless be lawful for such court to continue the trial until the same is concluded and the case disposed of.

RATIONALE: Repeal. This language is no longer necessary.

§ ~~17-27~~ 17.1-123. How orders are recorded and signed.

A. All orders that make up each day's proceedings of every circuit court shall be recorded by the clerk in a book known as the order book. Orders that make up each day's proceedings that have been recorded in the order book shall be deemed authenticated when (i) the judge's signature is shown in the order, (ii) the judge's signature is shown in the order book, or (iii) an order is recorded in the order book on the last day of each term showing the signature of each judge presiding during the term.

B. If a judge dies, retires or resigns before orders recorded in the order book have been authenticated, the orders shall have the same force and effect and shall be deemed authenticated when the signature of another judge of the same circuit court or the signature of the judge appointed to fill the vacancy or to preside over the court until the vacancy is filled is ~~shown~~ *authenticated* as provided in subsection A.

RATIONALE: Clarifying amendment only.

§ ~~17-28~~ 17.1-124. (Effective January 1, 1998) Order books.

Except as otherwise provided herein, each circuit court clerk shall keep two order books, to be known as the common-law order book and the chancery order book. In the common-law order book, all proceedings, orders and judgments of the court in all matters at common law shall be recorded. In the chancery order book, all decrees, and decretal orders of such court, in matters of equity and all matters pertaining to trusts, the appointment and qualification of trustees, committees, administrators, executors, conservators and guardians shall be recorded, except when the same are appointed by the clerk of court, in which event the order appointing such administrators or executors, shall be made and entered in the clerk's order book. In any circuit court, the clerk may, with the approval of the chief judge of the court, by order entered of record, divide the common-law order book into two sections, to be known as the civil common-law order book and the criminal common-law order book. All proceedings, orders and judgments of the court in all matters at civil common law shall be

recorded in the civil common-law order book, and all proceedings, orders and judgments of the court in all matters at criminal law shall be recorded in the criminal common-law order book. The action of any court which has established a separate criminal common-law order book prior to July 1, 1973, is hereby validated. In any proceeding brought for the condemnation of property, all proceedings, orders, judgments and decrees of the court shall be recorded in the common-law order book of the court. The recordation prior to January 1, 1974, of all proceedings, orders, judgments and decrees in such cases, whether entered in the common-law order book or the chancery order book of any court, is hereby declared a valid and proper recordation of the same. Orders in cases appealed from the juvenile and domestic relations district courts shall be maintained as provided in this section and, to the extent inconsistent with this section, § 16.1-302.

RATIONALE: No change.

~~§ 17-28~~ 17.1-124. (Delayed effective date - See notes) Order books.

Except as otherwise provided herein, each circuit court clerk shall keep two order books, to be known as the common-law order book and the chancery order book. In the common-law order book, all proceedings, orders and judgments of the court in all matters at common law shall be recorded. In the chancery order book, all decrees, and decretal orders of such court, in matters of equity and all matters pertaining to trusts, the appointment and qualification of trustees, committees, administrators, executors, conservators and guardians shall be recorded, except when the same are appointed by the clerk of court, in which event the order appointing such administrators or executors, shall be made and entered in the clerk's order book. In any circuit court, the clerk may, with the approval of the chief judge of the court, by order entered of record, divide the common-law order book into two sections, to be known as the civil common-law order book and the criminal common-law order book. All proceedings, orders and judgments of the court in all matters at civil common law shall be recorded in the civil common-law order book, and all proceedings, orders and judgments of the court in all matters at criminal law shall be recorded in the criminal common-law order book. The action of any court which has established a separate criminal common-law order book prior to July 1, 1973, is hereby validated. In any proceeding brought for the condemnation of property, all proceedings, orders, judgments and decrees of the court shall be recorded in the common-law order book of the court. The recordation prior to January 1, 1974, of all proceedings, orders, judgments and decrees in such cases, whether entered in the common-law order book or the chancery order book of any court, is hereby declared a valid and proper recordation of the same. Orders in cases appealed from the family courts shall be maintained as provided in this section and, to the extent inconsistent with this section, § 16.1-302.

RATIONALE: No change.

~~§ 17-28.1~~ 17.1-125. Trust fund order book.

There shall be kept in the office of the clerk of every circuit court an order book to be known as the trust fund order book, in which shall be recorded all reports, orders and decrees concerning moneys received or to be received by general receivers pursuant to § 8.01-582 and by clerks pursuant to § 8.01-600. Recording of orders and decrees pursuant to this section shall be in addition to, and not in lieu of, any recording otherwise required by statute.

RATIONALE: No change.

~~§ 17-29~~ 17.1-126. Adjournments not entered; orders closing terms.

No adjournments of court shall be entered or noted in either of the order books, except when the ~~then current~~ term ~~shall be~~ is ordered closed by the judge holding court or the chief judge of the circuit. In the absence of ~~such an~~ order ~~from the judge of any such court or the chief judge~~, the term ~~once opened~~ shall continue until the last ~~secular business day next preceding the next ensuing before the next~~ term of such court.

The closing of the term of such court shall be noted in each of the order books in the following manner:

"It is ordered that this court does now stand adjourned until the next term thereof, as fixed by law."

~~And such~~ The entry shall be made at the end of the entries for the day when such adjournment is ordered or, if ~~such the~~ entry is made by the clerk, then upon the last ~~secular business day next preceding before~~ the new term of such court.

RATIONALE: Editorial changes only.

§ ~~17-30~~ 17.1-127. Caption for record on opening of term, etc.

The opening of each new term of every circuit court shall be noted in each of the order books maintained by the clerk in the following manner:

"At the circuit court of the county (or city) of the new term of the court begins on (day of the week) the (day of month) day of (month) in the year 19. . . ."

RATIONALE: No change.

§ ~~17-30.1~~ 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 ~~involving an amount in excess of \$300~~, 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; ~~provided, that the~~ *The* court on appeal may provide that such cost may, in civil cases, be reimbursed to the party prevailing. 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, ~~except that the suspension or tolling of the statute of limitations as provided for in § 8.01-229 shall also be applicable to this section.~~ 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.

RATIONALE: The minimum amount required by this section has been stricken as unnecessary since the parties pay the costs, if incurred. Also, the language referring to a suspension or tolling of statutes of limitation is being stricken. A court reporter has no way of knowing if a statute has been tolled or suspended. It should be the responsibility of the parties to retain certified copies of transcripts, not the responsibility of the reporter to maintain records indefinitely.

§ ~~17-30.3~~ 17.1-129. Filing date and time to be noted on papers.

Whenever a pleading in any civil action is filed in a circuit court, the clerk or his designee shall stamp or mark the date and time of filing on the face of such pleading.

RATIONALE: No change.

§ ~~17-32~~ 17.1-130. Execution of judgments and decrees of courts no longer existing.

Every judgment, decree or order entered in a court which ~~shall have~~ *has* ceased to exist shall be executed by the court in *the* custody of whose clerk the record of such judgment, decree or order may be. ~~And to such court shall be certified every~~ Every judgment, decree or order of the Supreme Court ~~touching~~ *effecting* any judgment, decree or order ~~so entered shall be certified by the court~~ and the case shall be proceeded in as if such court had rendered the same.

RATIONALE: Rewritten for clarity.

§ ~~17-32.1~~ 17.1-131. Jurisdiction to issue writs of mandamus in matters pertaining to action of service district commission.

The circuit court of a county ~~and the court of record of a~~ *or* city having original and general jurisdiction of suits in chancery and civil cases at law, in which county or city is situated the seat of government of a service district, shall have original exclusive jurisdiction to issue writs of mandamus in all matters or proceedings arising from or pertaining to the action of the service district commission; ~~provided that, if there are two or more such courts of such city, such jurisdiction shall be concurrent among them.~~

RATIONALE: Language updated. The language referring to two or more circuit courts within the same city is stricken as obsolete

Article 1.
Clerk of Supreme Court.

~~§ 17-33~~ 17.1-200. Clerk of Supreme Court; ~~his term~~ *appointment*; removal.

There shall be a clerk of the Supreme Court, who shall be appointed, and may at any time be removed from office, by the court. The clerk shall hold office at the pleasure of the court and shall, in Court. In addition to his regular duties as clerk, he shall perform such other duties and services as the court Court may require, without additional compensation therefor.

RATIONALE: Editorial changes only. The stricken language is redundant.

~~§ 17-34~~ 17.1-201. Appointment of deputies; their duties; how removed, etc.

The Supreme Court, or any four of the judges justices thereof in vacation concurring in the appointment, may appoint one or more deputy clerks, who may discharge any of the official duties of the clerk during their continuance in office, unless it be some duty the performance of which by a deputy is expressly forbidden by law. Any deputy clerk may be removed from office either by the court Court or by any four of the judges justices thereof in vacation. Any such appointment or removal in vacation shall be in writing and shall be recorded in the book wherein the proceedings of maintained with the records of the court are recorded Court.

RATIONALE: Rewritten for clarity and to reflect how the Court actually "records" its orders.

~~§ 17-35~~ 17.1-202. Clerk, etc., of Supreme Court not to act as counsel.

No clerk, deputy clerk or employee of the Supreme Court shall act as counsel in any case pending in the court Court or which may be taken to the same Court by appeal or otherwise. Any clerk, deputy clerk or employee violating this section shall be removed from office or employment, as the case may be, in the manner provided in ~~§ 17-34~~ 17.1-201.

RATIONALE: Editorial change.

~~§ 17-36.~~ How vacancy in office filled.

When the office of clerk or deputy clerk of the court is vacant the vacancy may be filled by the court or in vacation by any four of its judges concurring in the appointment. The appointment in vacation shall be in writing and shall be recorded in the book wherein the proceedings of the court are recorded.

RATIONALE: Repeal. The intent of this provision is covered under previous §§ 17-33 and 17-34 (now §§ 17.1-200 and 17.1-201).

~~§ 17-37~~ 17.1-203. Where clerk's offices to be kept.

The clerk of the Supreme Court shall maintain a clerk's office at Richmond, at such place as the court Court shall direct; he shall also maintain a clerk's office at Staunton, unless the court shall direct otherwise.

RATIONALE: The Supreme Court no longer maintains a clerk's office in Staunton and so this provision is being stricken.

~~§ 17-38.~~ Bonds of clerk and deputy clerks of Supreme Court; where filed.

The Supreme Court shall require annually of its clerk and of each deputy clerk a bond, with surety approved by the court, in the penalty of not less than \$3,000 nor more than \$10,000. If the clerk or any deputy clerk be appointed in vacation the bond may be taken and the surety approved by the judges making the appointment. Every such clerk and deputy clerk shall, within ten days after the execution of his bond or of any new or additional bond which may be required of him, file the same with the Comptroller. Any clerk or deputy clerk who fails to do what is required of him by this section shall be fined not less than \$50.00 nor more than \$100.

RATIONALE: Repeal. This section is unnecessary because the clerks are covered by a blanket surety bond covering faithful performance of duty and errors and omissions held by the Division of Risk Management. The provisions providing for fines are being stricken as antiquated.

~~§ 17-39~~ 17.1-204. Examination of office and accounts of clerk.

The Supreme Court, or any four of the judges thereof in vacation, shall in like manner as provided in ~~§ 17-48~~ cause to be examined the clerk's office of its court and the expense thereof shall be paid out of the state treasury. The books and accounts of the clerk of the Supreme Court shall be audited annually and at such other times as the court Court may deem proper by the Auditor of Public

Accounts who shall make reports of his findings to the Governor and file a copy of such report with the ~~court~~ Court within thirty days after the completion of any such audit.

RATIONALE: The language contained in the first sentence is redundant. Section 17-48 dealing with examination of clerk's books, papers, etc. was repealed in 1992.

§ 17.1-205. *Reserved.*

Article 2.

Other Clerks and Clerks' Offices; ~~General Provisions.~~

~~§ 17-40~~ 17.1-206. Where offices to be located.

The clerk's office of every circuit court, or any division thereof, of any county or city shall be kept at the courthouse of such county or city, unless there ~~shall have been~~ is a failure by the proper authorities to provide ~~such an~~ office there, in which case the clerk's office may be kept at such other place within the county or city as the court may direct. However, nothing in this section shall prohibit the establishment of a clerk's office satellite facility or annex which is not located at the courthouse; provided that recording of all land records, docketing of all monetary judgments, filing of U.C.C. Financing Statements, and filing of matters at law and in equity shall be conducted at the courthouse location. All expenses related to the establishment and operation of a satellite facility or annex shall be the responsibility of the locality.

RATIONALE: Editorial changes only.

~~§ 17-41~~ 17.1-207. ~~Clerks' Days of operation of clerks' offices to be kept open on certain days.~~

The clerk's office of every court shall be kept open on every day except *Saturday and Sunday*, and the days provided for in § 2.1-21, for the transaction of business; provided that:

1. The judge of any circuit court may authorize the clerk to close the office on Saturday at twelve o'clock noon;

2. The judge of the circuit court of any county or city may authorize the clerk to close the office on Saturday, provided the governing body of such county or city approves such action as evidenced by a resolution adopted by such governing body;

3. The judge of any court in any county or city may authorize the clerk of such court to close the office on Saturday, provided the governing body of such county or city approves such action as evidenced by a resolution adopted by such governing body;

4. Notwithstanding the provisions of 2 and 3 hereof, the office of any clerk which has been closed on Saturday, pursuant to law, prior to July 1, 1962, may remain closed on Saturday;

5.1. The clerk's office of the circuit court of any county or city may be closed on any day which is established as a general holiday for the employees of such county or city by a resolution duly adopted by the governing body of such county or city and approved by the judge or judges of the circuit court and filed in the office of ~~such the~~ clerk; provided, ~~however,~~ that such general holiday shall have the same force and effect as a legal holiday as set forth in § 1-13.3:1;

6.2. The judge or judges of any court in any county or city may authorize the clerk of such court to close the clerk's office on Christmas Eve; provided, ~~however,~~ that the closing of any clerk's office as provided by this ~~section~~ subsection shall have the same force and effect as a legal holiday as set forth in § 1-13.3:1;

7.3. The chief judge or presiding judge of any circuit court may authorize the clerk of the court to close the clerk's office on any day when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health and safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this ~~subdivision~~ subsection shall have the same effect as provided in § 1-13.3:1;

8.4. The judge or judges of the circuit court of any county or city may authorize the clerk of such court to close the clerk's office on any day or portion of a day which the Governor declares as a holiday for state employees, or on any day or portion of a day on which the Governor authorizes state offices to be closed; provided that such closing of any clerk's office shall have the same force and effect as a legal holiday as set forth in § 1-13.3:1.

Except for closings pursuant to ~~subdivision 7~~ subsection 3, whenever the authorization of the judge is necessary to close a clerk's office and a ~~clerk is the clerk of more than one court, or a court has more than one judge,~~ the authorization of all such judges shall be necessary.

The judge of the circuit court of any county or city may require the clerk's office to be kept open continuously for the transaction of business during convenient hours on all the days on which it is herein required by *this section* to be kept open.

RATIONALE: The first four subsection have been stricken because all clerks' offices are now closed on Saturdays under one authority or another. The remaining subsections have been renumbered without substantive change.

~~§ 17-42. Telephones for clerks.~~

~~The clerks of the several circuit courts of this Commonwealth shall keep telephones in their respective offices, if there is a telephone system in such county or city, and charge the rental of the telephones to the county or city funds for the maintenance of their offices.~~

~~Any clerk failing or refusing to keep a telephone in his office shall forfeit five dollars for each day of such failure or refusal.~~

RATIONALE: Repeal. This section is obsolete.

§ 17-43 17.1-208. Records, etc., open to inspection; copies.

The records and papers of every court shall be open to inspection by any person and the clerk shall, when required, furnish copies thereof, except in cases in which it is otherwise specially provided. The certificate of the clerk to such copies shall, if the paper copied be recorded in a bound volume, contain the name and number of the volume and the page or folio at which the recordation of the paper begins. No person shall be permitted to use the clerk's office for the purpose of making copies of records in such manner, or to such extent, as will interfere with the business of the office or with its reasonable use by the general public.

RATIONALE: No substantive change.

§ 17-44 17.1-209. Preservation of papers in clerk's office.

All papers lawfully returned to, or filed in, the clerk's office shall be preserved therein until legally delivered out.

RATIONALE: No change.

§ 17-45 17.1-210. Removal of records or papers prohibited, ~~except in certain cases; exceptions.~~

None of the records or papers of a court shall be removed by the clerk nor allowed by him to be removed out of the county or city wherein the clerk's office is kept, except: (i) on the order of the court or judge; (ii) the clerk, court or judge may allow the records and papers of a pending case to be removed by an attorney of record in that case to any location within the Commonwealth unless the court or judge shall enter an order prohibiting the removal of such records or paper; (iii) on an occasion of invasion or insurrection, when, in the opinion of the court, or, in a very sudden case, of the clerk, the same will be endangered, after which they shall be returned as soon as the danger ceases; and (iv) in such other cases as are specially provided for by law. ~~Any clerk violating this section shall be liable to any party injured thereby in a sum not exceeding \$600.~~

RATIONALE: The provision dealing with a clerk paying an injured party for failure to comply with section has been stricken as antiquated.

~~§ 17-46. Disposition of certain records.~~

~~The clerk of any court in whose clerk's office any contract of sale, or sale, under the provisions of §§ 55-88 to 55-90 has been admitted to record may, when such contract of sale or sale has been on record for at least ten years in such clerk's office, destroy all such contracts of sale, sales and books containing the same and no such destruction shall affect the right of enforcement of any such contract as between the parties thereto.~~

~~Personal property tax books maintained in any clerk's office shall be destroyed by such clerk after six years from the date on which penalty accrued on all taxes shown therein.~~

RATIONALE: Repeal. Personal property tax records are now maintained by a locality's tax office.

~~§ 17-46.1 17.1-211. Maintenance and disposition of certain receipt books, cancelled checks and statements.~~

The clerk of each court of record shall maintain in his office all official receipt books showing receipt of any funds in his custody or that of the court, all canceled checks showing payments from any such funds, and all statements of bank accounts in which funds of the clerk's office or of the court are deposited. Such books, checks and statements shall be maintained until they have been

audited by the Auditor of Public Accounts, and for a further period of three years, in the case of receipt books, canceled checks, and bank statements. Thereafter, the clerk may destroy such records in accordance with retention regulations for records maintained by the clerk established under the Virginia Public Records Act (§ 42.1-76 et seq.).

RATIONALE: No change.

~~§ 47-47 17.1-212. Copying of records becoming illegible or wearing out.~~

The judge or, if so designated by the judge, the clerk of each court of record, when satisfied that the records and papers in the office of the clerk of court are becoming illegible or are wearing out and is of the opinion that the same should be preserved, may order the records and papers copied or photographed or otherwise duplicated *at the expense of the county or city in which the clerk's office is located.*

The copies of the records and papers shall be examined and compared by the clerk with the originals and when he is satisfied that the copies are exact he shall certify them as true copies; ~~the~~ *The certified copies when so examined and certified shall be kept in the same place in which the originals are kept and the latter shall continue to be carefully preserved.*

~~The city or county in which the clerk's office is located, any papers of which have been so copied, shall bear the expense of the same.~~

RATIONALE: Editorial changes.

~~§§ 47-47.1 through 47-47.3.~~

~~Repealed by Acts 1981, c. 637.~~

§ 47-47.4 17.1-213. Disposition of papers in ended cases.

A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in hardcopy form, either in the locality served by the circuit court where such files originated or in the Archives and Records Division of The Library of Virginia in accordance with the provisions of §§ 42.1-83 and 42.1-86.

B. The following records for cases ending on or after January 1, 1913, may be destroyed in their entirety at the discretion of the clerk of each circuit court after having been retained for ten years after conclusion:

1. Conditional sales contracts;
2. Concealed weapons permit applications;
3. Minister appointments;
4. Petitions for appointment of trustee;
5. Name changes;
6. Nolle prosequi cases;
7. Law and chancery matters that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed under § 8.01-335 and district court appeals dismissed under § 16.1-113 prior to 1988;
8. Misdemeanor and traffic cases, including those which were commenced on a felony charge but concluded as a misdemeanor;
9. Suits to enforce a lien;
10. Garnishments;
11. Executions except for those covered in § 8.01-484;
12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in the appropriate order book; and
13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving privileges.

C. All other records or cases ending on or after January 1, 1913, may be destroyed in their entirety at the discretion of the clerk of each circuit court subject to the following guidelines:

1. All civil and chancery case files to which subsection D does not pertain may be destroyed after twenty years from the court order date.
2. All criminal cases dismissed, including those not a true bill, acquittals and not guilty verdicts, may be destroyed after ten years from the court order date.
3. All criminal case files involving a felony conviction may be destroyed (i) after twenty years

from the sentencing date or (ii) when the sentence term ends, whichever comes later.

D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall be retained permanently as shall all cases in which the title to real estate is established, conveyed or condemned by an order or decree of the court. The final order for all cases in which the title to real estate is so affected shall include an appropriate notification thereof to the clerk.

E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all ended records, papers, or documents pertaining to law, chancery, and criminal cases which have been ended for a period of three years or longer and (ii) any unexecuted search warrants and affidavits for unexecuted search warrants, provided at least three years have passed since issued, to be destroyed if such records, papers, or documents no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or documents have been microfilmed. Such microfilm and microphotographic process and equipment shall meet state archival microfilm standards pursuant to § 42.1-82 and such microfilm shall be placed in conveniently accessible files and provisions made for examining and using same. The clerk shall further provide security negative microfilm copies of such ended cases for storage in the Archives and Records Division of The Library of Virginia.

RATIONALE: No substantive change.

~~§ 17-48.~~

~~Repealed by Acts 1992, c. 319.~~

~~§ 17-49.~~

~~Repealed by Acts 1972, c. 654.~~

~~§ 17-50 17.1-214.~~ Clerk to deliver or send process to ~~officer~~ *sheriff*.

The clerk of the circuit court from whose office may be issued any process, original, mesne or final, or any order or decree to be served on any person, shall, unless the party interested, or his attorney, direct otherwise, deliver the same to the sheriff, ~~sergeant or other proper officer~~ of the county or city for which the court is held, if it is to be executed therein, and if it is to be executed in any other county or city, shall enclose the same to the sheriff ~~or other proper officer~~ thereof, properly addressed, put it in the post office and pay the postage thereon.

RATIONALE: No substantive change. The amendments remove reference to the sergeant formerly responsible for service of process in cities.

~~§ 17-54 17.1-215.~~ Process book.

The clerk shall keep a process book or file or, in lieu thereof, an automated system, in which the clerk shall enter every such process, order or decree, showing its nature, date, return day and the person to whom, and the time when, it was delivered, or, if it was mailed, the time thereof and the person to whom it was addressed. From any officer, to whom there is such delivery, the clerk shall take a receipt in the process book or file or enter the receipt on the automated system.

RATIONALE: No change.

~~§ 17-52 17.1-216.~~ Handling fee for service of process.

The fee for serving such process, order or decree may be delivered to the clerk, who shall transmit it with the papers to be served to the sheriff, ~~sergeant or other proper officer~~ and ~~such~~ *the* fee so paid shall be taxed by the clerk as a part of the costs of the proceeding.

RATIONALE: The term "sergeant" has been stricken as antiquated. Sergeants were process servers in cities. The sheriffs now serve that function in both counties and cities.

~~§ 17-53 17.1-217.~~ Power of clerk to administer oath.

Any clerk of a court may administer an oath in any case wherein an affidavit is necessary or proper as the foundation of an official act to be performed by him.

RATIONALE: No change.

~~§ 17-54 17.1-218.~~ Certified lists of county, district, town and city officers, and constitutional officers; vacancies and appointments.

The clerk of the circuit court of each county and ~~the clerk of the circuit court of each~~ city shall annually, by July 1, send to the Secretary of the Commonwealth a list of all county, district, incorporated town and city officers and all constitutional officers of the Commonwealth, serving in

and for their respective counties, incorporated towns and cities. When a vacancy occurs in any such office the clerk shall notify the Secretary of the Commonwealth within ten days and shall likewise notify the Secretary of the election or appointment and qualification of any officer to fill such vacancy within ten days after the qualification of such officer. All such lists and notices sent to the Secretary of the Commonwealth shall be certified by the clerk.

~~Any clerk who fails to comply with the provisions of this section shall be fined not less than five dollars nor more than twenty-five dollars. The judge of each circuit court shall see that the provisions of this section are complied with.~~

RATIONALE: The provisions dealing with fining a clerk of failure to comply with this section have been stricken as antiquated as has the provision assigning oversight responsibility to the circuit court judge.

§ 17-55 17.1-219. Clerk to prepare bonds.

Every clerk shall prepare, in a proper manner, any bond to be taken by, or given before, him or his court or the judge thereof ~~in vacation~~.

RATIONALE: No substantive change. The term "in vacation" is being stricken because it doesn't apply any longer to the circuit courts (See § 8.01-445). Although the circuit courts continue to sit in terms, the judges are empowered to act even when a term is not "in session."

§ 17-56 17.1-220. Duplicate certificate of allowance prohibited, unless ordered by court.

~~There shall be no duplicate certificate of any allowance of a court to be paid out of the state treasury, unless the court, upon~~ Upon proof by the oath of ~~the~~ a party or otherwise of the loss or destruction of ~~the~~ an original certificate of any allowance to be paid out of the state treasury, the court shall order a duplicate, which shall show on its face that it is a duplicate issued by order of the court. ~~Any clerk who shall issue a duplicate otherwise, shall forfeit \$100.~~

RATIONALE: This section is rewritten for clarity and the provision for forfeiture for noncompliance of the clerk is stricken. Clerks of court are covered by a blanket surety bond held by the Division of Risk Management.

§ 17-57 17.1-221. Reports by clerks of the business of courts of record ~~in this Commonwealth~~.

The clerk of each court of record in this Commonwealth, including the clerk of the Court of Appeals, within fifteen days from the end of each calendar month, shall make to the Supreme Court a report of the business disposed of by his court during the month just ended. The report ~~herein provided for shall be made upon a form furnished by the Executive Secretary and shall contain such information as the Supreme Court deems proper to enable it to gain a fair knowledge of the business of the several courts of the Commonwealth.~~

~~The Executive Secretary of the Supreme Court shall furnish the clerks of the courts herein mentioned with a form upon which the reports provided for shall be made.~~

The reports shall be ~~so~~ filed and arranged in the office of the Executive Secretary ~~of the Supreme Court that~~ and the General Assembly or any other body or officer of this Commonwealth ~~may shall~~ have access thereto.

RATIONALE: Rewritten for clarity without substantive change.

§ 17-58 17.1-222. ~~Penalty for failure~~ Failure to make report.

~~The Executive Secretary of the Supreme Court at Richmond, at the direction of the court Court, shall report every clerk who fails to make the report mentioned in § 17-57 17.1-221 to the chief judge of his the clerk's court. Any clerk so failing shall, unless good cause for such failure be shown, be fined not exceeding fifty dollars.~~

RATIONALE: The new language is intended to clarify that the clerk's failure is reported to his own court and since most courts have several judges, the chief judge seems to be a logical entity. The provision for fining the clerk for failure to make report has been deleted as antiquated.

Article 3.

Records, Recordation and Indexing Generally.

§ 17-59 17.1-223. Duty of clerk as to ~~recording record~~ writings, etc., and ~~making make~~ index.

Every writing authorized by law to be recorded, with all certificates, plats, schedules or other papers thereto annexed or thereon endorsed, upon payment of fees for the same and the tax thereon,

if any, shall, when admitted to record, be recorded by or under the direction of the clerk on such media as are prescribed by § ~~17-70~~ 17.1-239. However, the clerk may refuse to accept any writing for filing or recordation unless (i) each individual's surname only, where it first appears in the writing, is underscored or written entirely in capital letters, (ii) each page of the instrument or writing is numbered, (iii) the Code section under which any exemption from recordation taxes is claimed is clearly stated on the face of the writing, (iv) the names of all grantors and grantees are listed as required by §§ 55-48 and 55-58, and (v) the first page of the document bears an entry showing the name of either the person or entity who drafted the instrument, except that papers or documents prepared outside of the Commonwealth shall be recorded without such an entry. In addition, no deed shall be accepted for record by the clerk unless it is accompanied by a current business or residence address of the grantee or a designee. However, if the writing or deed is accepted for record and spread on the deed books, it shall be deemed to be validly recorded for all purposes. Such books shall be indexed by him as provided by § ~~17-79~~ 17.1-249 and carefully preserved. Upon admitting any such writing or other paper to record the clerk shall endorse thereon the day and time of day of such recordation. More than one book may be used contemporaneously under the direction of the clerk for the recordation of the writings mentioned in this section whenever it may be necessary to use more than one book for the proper conduct of the business of his office. After being so recorded such writings may be delivered to the party entitled to claim under the same. ~~Any clerk failing to comply with the provisions of this section or of § 17-79 shall, for every such failure, forfeit the sum of twenty dollars.~~

RATIONALE: The provision requiring forfeiture by the clerk for noncompliance has been stricken as antiquated.

~~§ 17-59.1~~ 17.1-224. Copy of illegible instrument used for making permanent photostat record.

In offices of clerks of courts of record in which instruments are recorded by any photographic process, the clerk may, in the event any such instrument is in such condition that a perfect and legible record cannot be produced by such process, make and certify a copy of such instrument, for which he shall be entitled to such fees as are prescribed by law for making and certifying copies of instruments, and use such copy for making permanent records of his office by such photographic process. Such original instrument shall be preserved in the clerk's office, in the same manner as is prescribed by law for preserving wills.

RATIONALE: No change.

~~§ 17-59.2~~ 17.1-225. Remote access to nonconfidential court records.

The clerk of the circuit court of any county or city may provide remote access, including internet access, to all nonconfidential court records maintained by his office. The clerk shall be responsible for insuring that proper security measures are implemented and maintained to prevent remote access users from obtaining any data which is confidential under this Code and to prevent the modification or destruction of any records by remote access users.

RATIONALE: No change.

~~§ 17-59.3~~ 17.1-226. Remote access to certain agencies from clerk of court.

The governing body of any county or city may give the clerk of its circuit court, pursuant to § ~~17-59.2~~ 17.1-225, the authority to provide remote access users with information from county, city or local agencies.

RATIONALE: No change.

~~§ 17-60~~ 17.1-227. Documents to be recorded in deed books.

All deeds, deeds of trust, deeds of release, certificates of satisfaction or certificates of partial satisfaction, quitclaim deeds, homestead deeds, grants, transfers and mortgages of real estate, releases of such mortgages, powers of attorney to convey real estate, leases of real estate, notices of lis pendens and all contracts in reference to real estate, which have been acknowledged as required by law, and certified copies of final judgments or decrees of partition affecting the title or possession of real estate, any part of which is situated in the county or city in which it is sought to be recorded, and all other writings relating to or affecting real estate which are authorized to be recorded, shall, unless otherwise provided, be recorded in a book to be known as the deed book. All deeds, deeds of trust, deeds of release, quitclaim deeds, grants, transfers, and mortgages of real estate or any

books of the appropriate office of the clerk of court shall be prepared according to the requirements for deeds as set forth in §§ 55-48 and 55-58 and shall include the names of all grantors and grantees in the first clause of each such instrument. Each instrument shall be indexed under all such names in accordance with the provisions of § ~~17-79~~ 17.1-249.

RATIONALE: No change.

§ ~~17-60.1~~ 17.1-228. Recording releases of deeds of trust, partial releases of deeds of trust, court ordered releases, or other liens or assignments in cities and counties using microfilm.

Notwithstanding any other provision of law, whenever the writings required by law to be recorded in the deed book in the office of the clerk of the circuit court of any city or county are recorded by a microphotographic process or by any other method or process which renders impractical or impossible the subsequent entering of marginal notations upon a recorded instrument, an appropriate certificate, certificate of satisfaction, certificate of partial satisfaction, certified copy of order, or other separate instrument setting forth the necessary information shall be recorded and indexed according to law.

When existing deed books in the office of the clerk of the circuit court of any county or city are to be microfilmed for security purposes, the clerk may provide that marginal notations to accomplish the release of deeds of trust or other liens shall not be made in such deed book so microfilmed.

RATIONALE: No change.

§ ~~17-61~~ 17.1-229. ~~Documents~~ *Additional documents* to be recorded in deed book.

All deeds, homestead deeds and leases of personal property, bills of sale, and all other contracts or liens as to personal property, which are by law required or permitted to be recorded, all mechanics' liens, all other liens not directed to be recorded elsewhere and all other writings relating to or affecting personal property which are authorized to be recorded shall, unless otherwise provided, be recorded in the deed book and shall be indexed in the general index book.

RATIONALE: No change.

§ ~~17-62~~ 17.1-230. Documents to be recorded in bond book.

All bonds taken of officers, executors, administrators, trustees or other fiduciaries and all bonds of commissioners and receivers, and all suspending bonds, appeal bonds, injunction bonds, attachment bonds, cost bonds, and all other bonds required to be recorded, shall be recorded in a book known as the bond book.

RATIONALE: No change.

§ ~~17-63~~ 17.1-231. Documents to be recorded in will book.

All wills, inventories, appraisements, lists of sales and settlements of accounts of executors, administrators, curators, trustees or other fiduciaries shall be recorded in a book to be known as the will book; ~~provided~~. *Provided*, that the judges of the several courts of the Commonwealth before whom fiduciaries qualify may, by an order ~~entered either in term or in vacation~~, prescribe that inventories, appraisements, accounts of sale and settlement of accounts of fiduciaries, together with all reports and decrees or orders, or portions thereof, proper to be recorded therewith, shall be recorded either in the current will book or in a book to be kept by the clerk for that purpose; ~~as to such judge may seem proper; and provided, further, that such~~. *Such* courts may prescribe that the settlements of accounts of fiduciaries be recorded in the mode prescribed by § 26-35.

RATIONALE: Editorial changes.

§ ~~17-64~~ 17.1-232. What to be recorded in judgment docket.

Abstracts of all judgments authorized or required by law to be docketed or recorded and abstracts of all executions issued on any judgment shall be recorded in a book to be known as the judgment docket; ~~provided that executions issued on judgments rendered by trial justices which are not docketed on the judgment docket may be recorded in the book in which executions issued by trial justices are recorded as provided by § 16-36.~~

RATIONALE: Section 16-36, referred to here, was repealed in the recodification of Title 16, and its substantive provisions as applicable to this section were not brought forward into Title 16.1. Therefore, the provision dealing with judgments by trial justices is being stricken.

§ ~~17-65~~ 17.1-233. What to be recorded in marriage register.

All marriage licenses and all matters relating to marriages required or authorized to be recorded under §§ ~~20-19, 20-20 and 20-29~~ shall be recorded in a book to be known as the marriage register.

RATIONALE: No substantive change. Section 20-19 was repealed in 1968 (Chapter 318) and

§ 20-29 was repealed in 1975 (Chapter 644).

~~§ 17-66~~ 17.1-234. Documents to be recorded in "writings partially proved".

All deeds and other instruments which have been only partially proved shall be recorded in a separate book to be known as "writings partially proved."

RATIONALE: No change.

~~§ 17-67~~ 17.1-235. Recordation of federal farm loan mortgages.

The clerks of the ~~several circuit courts of the Commonwealth~~ shall keep a separate book, which shall be known as the federal farm loan mortgage book, in which shall be recorded mortgages executed to secure the payment of loans made by federal land banks under authority of the act of Congress, approved July 17, 1916, known as the Federal Farm Loan Act, which mortgages, when so recorded in such book shall be indexed in the proper general index book, as well as in the index to such farm loan mortgage book; provided that any such clerk instead of providing such separate book may immediately spread upon the book in which deeds are recorded in his office any and all proper mortgages or deeds of trust executed to secure such loans and all of such mortgages and deeds of trust shall be immediately spread upon such records when received, so that the original thereof may be returned to the federal land bank as soon as possible.

RATIONALE: No substantive change.

~~§ 17-68~~ 17.1-236. Recordation of plats and maps.

All plats and maps may in the discretion of the clerks of the several circuit courts be recorded in a book to be known as the plat book. And in case of such recordation of any plat or map which is attached to or made a part of any deed, deed of trust or writing which is recorded in the deed book, an appropriate note shall be made on the deed book where such deed, deed of trust or other writing is recorded, referring to the plat book and page where the plat or map is recorded and the clerk shall endorse on the plat and plat book the date of the recordation and a reference by book and page to the recorded instrument of which it is a part and shall sign the certificate. In those courts where deeds and other writings are recorded by a procedural microfilm recording system, all plats shall be recorded with the deeds and other writings and indexed in the general index to deeds. Wherever plats are maintained singly, as in a cabinet or on microfilm aperture cards, they shall be cross-referenced with the deed books in the same manner as prescribed herein when plats are recorded in a separate plat book. All plats submitted for recordation shall meet the standards for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.).

RATIONALE: No change.

~~§ 17-69~~ 17.1-237. Validation of recordations in certain plat books.

All books in which prior to June 24, 1944, plats were recorded separately from the deed books in all the clerks' offices of this Commonwealth are hereby validated and made parts of the official records of the offices.

RATIONALE: No change.

~~§ 17-69.1~~ 17.1-238. State highway plat book.

A loose-leaf book known as "state highway plat book," which shall be provided by the Department of Transportation, shall be installed in the circuit court clerk's office of each county of this Commonwealth and in the clerk's office of the circuit court of any city wherein the Department of Transportation has acquired any interest in land, and all highway plats pertaining to the primary and secondary highway systems, and all plats in connection therewith, shall be filed therein by the clerk. The clerk shall note on each recorded deed relating to such plats and on the margin of the page of the deed book, wherein such deed is recorded, the numbers of the state highway plat book and page wherein such plats are filed. The clerk so filing the plats and so noting the same shall receive a fee of five dollars. All plats filed prior to July 1, 1950, in such state highway plat book be and the same are hereby validated.

RATIONALE: No change.

~~§ 17-70~~ 17.1-239. Character of books used for recording; standards for microfilm, etc.

All books used in the clerk's office for the permanent recordation of deeds, wills and other instruments shall either be made of high quality record paper, strictly number one rag stock, or permanent-durable, acid-free paper composed of strong, well-purified chemical wood fibers as prescribed by regulations pursuant to subdivision 2 of § 42.1-82, or, if microfilm, microfiche, or

microphotographic process is used in the clerk's office, the deeds, wills or other instruments shall be processed in accordance with standards established pursuant to § 42.1-82. All books are to be substantially bound, with a durable cloth or plastic cover over all.

RATIONALE: No change.

§ ~~47-70.4~~ 17.1-240. Recording by microphotographic or electronic process.

A procedural microphotographic process, digital reproduction, or any other micrographic process which stores images of documents in reduced size or in electronic format, may be used to accomplish the recording of writings otherwise required by any provision of law to be spread in a book or retained in the circuit court clerk's office, including, but not limited to, the Common Law Order Book, the Chancery Order Book, the Clerk's Order Books, the Will Book and/or Fiduciary Account Book, the Juvenile Order Book, the Adoption Order Book, the Trust Fund Order Book, the Deed Book, the Plat Book, the Land Book, the Judgment Docket Book, the Partnership or Assumed Name Certificate Book, marriage records, and financing statements. Any such micrographic, microphotographic or electronic recording process shall meet archival standards as recommended by the Archives Division of the Library of Virginia.

RATIONALE: No change.

§ ~~47-71~~ 17.1-241. Clerks to procure books for record.

Every clerk shall procure ~~such~~ *appropriate* books for records as the business of his office requires. But orders for the same shall first be obtained by the clerks from the ~~boards of supervisors or other governing bodies of their respective counties or from the councils of their respective cities.~~

RATIONALE: Editorial changes.

§ ~~47-72~~ 17.1-242. Custody of books, records, etc.

The clerks shall have custody of and shall keep all books, records, maps and papers deposited in their offices.

RATIONALE: No change.

§ ~~47-73~~ 17.1-243. Courts to have land books bound.

The ~~several~~ circuit courts shall ~~cause to be bound~~ *bind*, in volumes of convenient size, all books in their respective clerks' offices not ~~now~~ *currently* bound showing the assessments of lands since the year 1850, and shall ~~cause to be bound~~ *bind* in like volumes such books ~~to be~~ hereafter filed in their clerks' offices at intervals of not more than five years.

RATIONALE: Editorial changes.

§ ~~47-74~~ 17.1-244. Books, etc., in clerks' offices rebound, transcribed, microfilmed or digitally reproduced; credit given to transcripts, etc.

Any court of record or, if so designated by the judge, the clerk thereof may cause any of the books or records in the clerk's office which may be in need thereof to be rebound, transcribed, microfilmed or digitally reproduced. The same faith and credit shall be given to such transcript or reproductions from the microfilm as the book or record transcribed would have been entitled to.

RATIONALE: No change.

§ ~~47-75~~ 17.1-245. Books may be taken from clerk's office to be rebound, etc.

The court or, if so designated by the judge, the clerk directing any book or books to be bound, rebound, microfilmed or digitally reproduced ~~as aforesaid~~ may allow the same to be taken from the clerk's office in which such book or books may be on file, but shall take all necessary and proper precautions, by requiring bonds or otherwise, to insure the preservation and return and to prevent the mutilation thereof.

RATIONALE: Editorial changes.

§ ~~47-76~~ 17.1-246. How costs thereof certified and paid.

The cost incurred shall be certified by ~~such~~ *the* court or, if so designated by the judge, the clerk, to the ~~board of supervisors or other governing body of the county or to the council of the city~~ in whose clerk's office the books or records so bound, rebound, microfilmed, transcribed or digitally reproduced are on file, to be paid ~~as a charge on~~ *by* such county or city.

RATIONALE: Editorial changes.

§ ~~47-77~~ 17.1-247. When and how clerk to verify his record.

The clerk of every court of record shall verify the accuracy of the records made by him, by a careful examination and comparison ~~of the same~~ with the original papers ~~so~~ recorded, within thirty

days after such record is made, and shall note such verification and the date thereof upon the margin of the record. ~~For any failure and default herein, he shall be liable to a fine of not less than ten nor more than fifty dollars, in the discretion of the judge of his court.~~

RATIONALE: Editorial changes have been made and reference to marginal notations have been stricken as obsolete. The provisions fining the clerk for failure to comply with this section has been stricken as antiquated.

~~§ 17-78~~ 17.1-248. Clerk to make index to each of his books.

The clerk of every court shall have an index to each book he is required to keep, except those for which general indexes are required ~~and kept~~, or permitted, and kept, making convenient reference to every order, record or entry therein. Every execution and every judgment or decree for money shall be indexed, ~~as well~~ in the name of the person against whom ~~as~~ and in the name of the person in whose favor the ~~same is judgment or decree was rendered~~.

RATIONALE: Rewritten for clarity.

~~§ 17-79~~ 17.1-249. General indexes for clerks' offices; daily index.

A. There shall be kept in every clerk's office modern, family name or ledgerized alphabetical key-table general indexes to all deed books, miscellaneous liens, will books, judgment dockets and court order books. The clerk shall enter daily either in such general indexes or in the daily index to instruments admitted to record every deed, corrected or amended deed, deed of release, deed of trust, contract of sale, or any addendum or memorandum relating to any of these instruments, indexing each instrument in the names of all parties listed in the first clause of each instrument as required by §§ 55-48 and 55-58. Any clerk, deputy clerk, or employee of any clerk who so indexes any such instrument shall index any name appearing in the first clause of the original instrument.

B. A deed made to one or more trustees to secure the payment of an indebtedness shall be sufficiently indexed if the clerk enters in the appropriate places in the general index to deeds provided for in subsection A the names of the grantor and the name of the beneficiary or, in lieu of the name of the beneficiary, the first listed trustee as grantee. The beneficiary need not be named in the first clause of the deed as a condition of recordation.

C. A deed made by a person in a representative capacity, or by devisees or coparceners, shall be indexed in the names of the grantors and grantees and the name of the former record title owner listed in the first clause of the instrument.

D. The general indexes of law and chancery causes shall be sufficiently kept if the clerk indexes such causes under the short style or title thereof, except that in multiple suits brought under § 58.1-3968, the names of all of the defendants disclosed by the pleadings shall be entered in the general index or book.

E. Every deed of conveyance of real estate in which a vendor's lien is reserved shall be double indexed so as to show not only the conveyance from the grantor to the grantee in the instrument, but also the reservation of the lien as if it were a grant of the same from the grantee to the grantor by a separate instrument and the fact of the lien shall be noted in the index.

F. All deed books, miscellaneous liens, will books, judgment dockets, and court order books shall be numbered or otherwise adequately designated and the clerk upon the delivery of any writing to him for record required by law to be recorded shall duly index it upon the general index in the manner hereinbefore required. When the writing has been actually transcribed on the book, the clerk shall add to the general index the number of the book in which, and the page on which, the writing is recorded.

G. The clerk on receipt of any such writing for record may immediately index it in a book to be known as the "daily index of instruments admitted to record" and within ninety days after its admission to record the clerk shall index all such writings indexed in the daily index in the appropriate general index as hereinbefore provided. The daily index book shall, at all times, be kept in the office of the clerk and conveniently available for examination by the public. During the period permitted for transfer from the daily index to the general index, indexing in the daily index shall be a sufficient compliance with the requirements of this section as to indexing.

H. The judge of any circuit court may make such orders as he deems advisable as to the time and method of indexing the order books in the clerk's office of the court and may dispense with a general index for order books of the court.

I. The clerk may maintain his indexes on computer, word processor, microfilm, microfiche, or other micrographic medium.

RATIONALE: No change.

~~§ 17-79.1~~ 17.1-250. Correction of indexes.

No clerk or deputy clerk of any court in which deeds are recorded shall correct any indexing mistake by insertion, or alter or reprint the page, unless, at the time of such insertion, alteration or reprinting, he (i) notes the date and nature of the change in the margin of the index and places his name or initials upon same or (ii) by any other means capable of maintaining a permanent record of the change together with the original recording, indicates the date and nature of the change and the name of the person who made it.

RATIONALE: No change.

~~§ 17-79.2~~ 17.1-251. Indexing of certain subdivision plats or maps.

When any plat or map of a subdivision which contains fifteen lots or more is recorded in the general index, the clerk shall, in addition to complying with the requirements set forth in § ~~17-79~~ 17.1-249, add the magisterial district wherein the subdivision is located. Such plat or map shall also show the source of title of the immediate grantor.

RATIONALE: No change.

~~§ 17-79.3~~ 17.1-252. Indexing by tax map reference number.

The Clerks of the Circuit Courts of Arlington, Chesterfield, Fairfax, Fauquier, Henrico, Loudoun, Montgomery, Prince William, Roanoke, Spotsylvania and Wise Counties and the Cities of Alexandria, Fairfax, Falls Church, Norton and Virginia Beach may require that any deed or other instrument conveying or relating to an interest in real property bear in the left margin of the first page of the deed or other instrument the tax map reference number or numbers, or the parcel identification number (PIN) or numbers, of the affected parcel or parcels. Upon admitting the deed or other instrument to record, the clerk may, in addition to any other indexing required by law, index the deed or other instrument by the tax map reference number or numbers or by the parcel identification number or numbers.

RATIONALE: No change.

~~§ 17-80~~ 17.1-253. Committee to inquire into necessity of general index; *report; plan adopted; locality to cover cost.*

A. Whenever ~~the attention of~~ the circuit court, or the judge of ~~any such court in vacation thereof,~~ ~~is called to the~~ *finds that there is* need of an improved system of general indexing to any of the records ~~heretofore~~ kept by the clerk of ~~such~~ court, it shall be the duty of ~~such~~ *the* court or judge, in its or his discretion, to appoint a committee to inquire into the necessity for such indexing, and make a report to the court, or the judge thereof ~~in vacation.~~

RATIONALE: Editorial changes. The provisions of former §§ 17-81, 17-82 and 17-83 have been added and combined with former § 17-80 since all deal with same subject matter.

~~§ 17-81. Report of committee and action thereon.~~

B. If ~~such the~~ committee ~~shall report reports~~ that the work is needed, the court or judge shall authorize and direct the committee to make a written contract with some responsible and experienced person or persons ~~for the installing of the work,~~ but such contract shall be approved by the court or judge before it becomes effective.

RATIONALE: The provisions of this section are added with editorial changes to former § 17-80 (now § 17.1-253) dealing with the same subject matter.

~~§ 17-82. Plan adopted by court kept for current work.~~

C. When such index is installed in any clerk's office the same plan of index to current records shall be adopted and used by the clerk of such court.

RATIONALE: The provisions of this section are added to former § 17-80 (now § 17.1-253) dealing with the same subject matter.

~~§ 17-83. Levy for indexing and material.~~

D. The ~~board of supervisors or other~~ governing body of the county or ~~council of the city~~ wherein such indexing shall be directed by the court or judge to be done shall, if necessary, provide, ~~in laying its annual county or city levy,~~ a sufficient sum to pay for such indexing and materials.

RATIONALE: The provisions of this section are added with editorial changes to former

§ 17-80 (now § 17.1-253) dealing with the same subject matter.

§ ~~17-83.1~~ 17.1-254. Validation of judgment records in office of clerk of ~~Corporation~~ Circuit Court of Norfolk.

The "General Index to Judgment Lien Docket and Execution Books" designated "A-D," "E-K," "L-R" and "S-Z," respectively, in the office of the clerk of the ~~Corporation~~ Circuit Court of the City of Norfolk is hereby validated, and is and shall be for all purposes whatever the legal record of judgments docketed as provided by law in the office of such clerk for the period beginning January 2, 1917.

RATIONALE: No substantive change. Corporation courts are now circuit courts.

Article ~~3.01~~ 4.

Electronic Filing ~~with Clerk~~.

(This article expires July 1, 1998)

§ ~~17-83.1-1~~ 17.1-255. (Effective until July 1, 1998) Definition.

As used in this article, "electronic filing of documents" means the filing of data transmitted to a circuit court clerk by the communication of information originally displayed in written form, in the form of digital electronic signals transformed by computer and stored on microfilm, magnetic tape, optical disks, or CD ROM.

RATIONALE: No change.

§ ~~17-83.1-2~~ 17.1-256. (Effective until July 1, 1998) Electronic filing of documents authorized.

If a circuit court clerk of a county having an urban county executive form of government has established a system for receiving electronically transmitted information from an electronic copying device, federal, state, and local governmental entities, or political subdivisions thereof, and quasi-governmental agencies, corporations, and authorities, including but not limited to Fannie Mae, Freddie Mac, and VHDA, may electronically file land records, instruments, judgments, and UCC financing statements. The place of filing is the receiving station designated by the circuit court clerk to which electronic information is transmitted.

RATIONALE: No change.

§ ~~17-83.1-3~~ 17.1-257. (Effective until July 1, 1998) Completion of electronic filing; transmission and distribution of data.

A. To complete an electronic filing:

1. The person filing an instrument with the circuit court clerk must transmit the instrument electronically;
2. The receiving station must transmit acknowledgment to the sending party by encoding electronic receipt of the transmission;
3. The sending station must encode validation of the encoded receipt as correct; and
4. The receiving station must respond by encoded transcription into the computer system that validation has occurred and that the electronic transmission has been completed.

B. Upon completion of an electronic filing, a receiving station shall transmit data to the appropriate court as required and distribute data as required by statute or rule. Data must be distributed or transmitted from or through the medium of direct computer transmission, microfilm, magnetic tape, or optical disks, or CD ROM.

RATIONALE: No change.

§ ~~17-83.1-4~~ 17.1-258. (Effective until July 1, 1998) Signature; when effective as originals.

If the sender of an electronically filed document files an affidavit of authenticity along with the electronic filing and the electronic transmission bears a facsimile or printing of the required signature, any statutory requirement for an original signature shall be deemed to be satisfied. Any reproduction of the electronically filed document must bear a copy of the signature. The electronically reproduced document shall be accepted as the signature document for all court-related purposes unless the original with the original signature affixed is requested by motion of one or more parties to a pending action or is otherwise required by law. If the court grants the motion of a party, the order shall provide that the original be filed with the court.

RATIONALE: No change.

Article 3.1 5.

Master and Incorporating Deeds of Trust.

~~§ 17-83.2~~ 17.1-259. Recordation of master deed of trust; *form and requisites*.

A. Any person may record in any clerk's office in the Commonwealth where deeds are recorded a form of a deed of trust, hereinafter referred to as a "master deed."

RATIONALE: No substantive change. This section and the following section (former § 17-83.3) are being combined as both deal with master deeds of trust.

~~§ 17-83.3. Form and requisites of master deed of trust.~~

B. The master deed shall bear the caption "Master Deed of Trust," and may contain any provisions not in conflict with law. The provisions shall be numbered or lettered, clearly distinguishable one from the other, and susceptible of exact reference.

RATIONALE: No substantive change. This section and the previous section (former § 17-83.2) are being combined as both deal with master deeds of trust.

§ 17-83.4 17.1-260. Recordation, effect and requisites of incorporating deed.

Any person may record a deed of trust hereinafter referred to as an "incorporating deed," which incorporates by reference any one or more of the provisions of a master deed recorded in the same clerk's office. The provisions incorporated by reference shall be of the same force and effect and shall be as binding upon the parties to the incorporating deed and their successors in title as if fully set forth in the incorporating deed. No incorporating deed shall refer to more than one master deed.

RATIONALE: No change.

Article 4 6.

Names, Discharges, etc., of War Service Men.

§ 17-84 17.1-261. Recordation of names of men who served during World War I.

The clerk of ~~that the circuit~~ court of each county or city ~~where deeds conveying lands therein are required to be recorded~~ shall preserve the book or books in which have been recorded the lists of the residents of such counties or cities, who became members of the military forces of the United States during World War I.

Any person who has joined either the naval or military forces of the United States or its allies, may have his name spread upon such record, upon application and proof of such service, or some person may make such application for him, and when done his name shall be placed upon the record.

The clerks of ~~the courts~~ shall be entitled to the fees allowed by law for copying in similar cases.

RATIONALE: No substantive change.

§ 17-85 17.1-262. Recordation of discharges of those who served in World War I.

Whenever the honorable discharge of any person who served in the military or naval forces of the United States or its associates during World War I, and who at the time of entering such service was a resident of Virginia shall be delivered to the clerk of any *circuit* court in this Commonwealth ~~in the office of whom deeds are admitted to record~~, the clerk shall record the same in the book hereinafter provided for. *Copies of honorable discharges certified by the clerk shall be received as evidence of the facts therein stated.*

RATIONALE: No substantive change. The provisions of former § 17-86 have been added to this section.

~~§ 17-86. Certified copies of discharges evidence.~~

~~Copies of such honorable discharges referred to in § 17-85 certified by the clerk shall be received as evidence of the facts therein stated.~~

RATIONALE: Delete. The provisions of this section has been added to § 17.1-262 (former § 17-85).

§ 17-87 17.1-263. World War I Memorial Record.

~~The clerk of the Each circuit court of each county and the clerk of each city court in the office of which deeds may be admitted to record~~ shall maintain a loose-leaf binder suitable for permanent record purposes of such standard form as was prescribed by the Virginia World War I History Commission, and sufficient loose leaves printed in such blank form as was prescribed by such commission, known as the "World War I Memorial Record," which shall be a public record book of ~~such~~ the clerk's office. ~~Such~~ The clerk shall record therein the honorable discharges as ~~aforsaid~~.

~~Provided, however, that whenever any such~~ *If the clerk shall have* recorded such ~~the~~ honorable discharges in any other book prior to receipt of ~~such the~~ special books, such prior recordations are hereby validated and approved; ~~and such recordations.~~ *Recordations* and certified copies thereof heretofore or hereafter furnished shall have the same force and effect as those provided by § ~~17-86~~ 17.1-262 and whenever the World War I History Commission shall have approved the form of the record book so previously in use, it shall be optional with ~~such the~~ clerk to continue the use of such record book.

RATIONALE: Editorial changes only.

~~§ 17-88. Clerks to obtain lists of World War II servicemen.~~

The clerk of every circuit court in whose office deeds may be admitted to record shall request and obtain from the chairman of each draft board in his county or city a list or lists of all the residents of such county or city who, under the Selective Service Act or by voluntary action, have been or shall hereafter during the continuance of the present World War II be inducted into the armed forces of the United States. The list or lists shall contain the name and address, personal description and branch of the service into which the resident was inducted, together with the grade or rank at the time of induction. Supplemental lists shall be obtained until all such members of the armed forces have been included therein.

RATIONALE: Repeal. This section is no longer necessary. Inductions into the service during World War II should be preserved under former § 17-91 (now § 17.1-264).

~~§ 17-89. Recordation of the same.~~

Upon receipt of the list the clerk shall record the information contained therein into a record book kept for the purpose and known as "Induction and Discharge Record, World War II," under the heading "Induction Record."

RATIONALE: Repeal. This language is redundant when read with former § 17-91 (now § 17.1-264).

~~§ 17-90. Record book for same.~~

B. Such record book shall be kept in the clerk's office as a public record and shall be paid for by the county or city, as other public record books are paid for. It shall be standard loose-leaf construction, suitable for permanent record purposes, and shall consist of a binder with canvas jacket, an index and a quantity of sheets printed to provide space for (1) (i) the induction record, (2) (ii) the service record and (3) (iii) the discharge. Under (1) ~~shall be provided~~ *subdivision (i)* suitable headings and space for recording the induction information obtained from the draft boards *shall be provided* and under (2) ~~and (3) shall be provided~~ *subdivisions (ii) and (iii)* suitable headings and space for recording the information contained in the discharge papers *shall be provided*.

RATIONALE: Editorial changes only. This section is combined with former § 17-91 (now § 17.1-264) because it describes the contents of the record required by that section.

~~§ 17-91 17.1-264. Recording information on discharges of World War II servicemen.~~

A. When the honorable or dishonorable discharge of any person who served in the armed forces of the United States, or its associates, during World War II and who was a resident of the county or city at the time of his induction is presented, the clerk shall record the information contained therein in the proper spaces provided for such purpose in the book known as "Induction and Discharge Record, World War II." If the induction record of the veteran presenting a discharge for recordation is not already recorded, the clerk shall ascertain this information and record it along with the discharge.

RATIONALE: This section is combined with former § 17-90 because that section describes the contents of the record provided for here.

~~§ 17-92 17.1-265. Recordation of evidence of discharge generally.~~

The clerk of the circuit court of the county or city wherein ~~the~~ *a* person discharged from the armed forces of the United States resides shall *record*, upon presentation, ~~record~~, free of charge, the original or a properly authenticated copy of either the discharge certificate or the report of separation from active duty (Department of Defense Document DD-214), or both, ~~of any person discharged from the armed forces of the United States.~~

RATIONALE: No substantive change. Rewritten for clarity.

Article 1.

Composition; jurisdiction, etc.

§ ~~17-93~~ 17.1-300. Composition of Court; quorum; Chief Justice.

The Supreme Court shall consist of seven justices, any four of whom convened shall ~~form~~ constitute a quorum. The justice longest in continuous service shall be Chief Justice; and if two or more shall have so served for the same period, the justice senior in years of these shall be Chief Justice; ~~provided that an~~ An eligible justice may decline to serve as Chief Justice, or a Chief Justice may resign as such, without thereby relinquishing his membership on the Court as a justice thereof. In either event the Chief Justice shall be the justice who would next succeed to the office.

RATIONALE: Editorial changes.

§ ~~17-93.1~~ 17.1-303. Election of successor justice before date of vacancy.

Whenever a vacancy occurs or exists in the office of a justice of the Supreme Court while the General Assembly is in session, or whenever the term of office of a justice of the Supreme Court will expire or the office will be vacated at a date certain between the adjournment of the General Assembly and the commencement of the next session of the General Assembly, a successor may be elected at any time during a session preceding the date of such vacancy, by the vote of a majority of the members elected to each house of the General Assembly, for a full term and, upon qualification, the successor shall enter at once upon the discharge of the duties of the office; however, such successor shall not qualify prior to the predecessor leaving office.

RATIONALE: No change.

§ ~~17-94~~ 17.1-308. Court may sit and render final judgment en banc or in divisions; when decision becomes judgment of Court; majority must concur in declaring law unconstitutional; rehearings.

The Supreme Court may sit and render final judgment en banc or in divisions, as may be prescribed by rules of the Court not inconsistent with the provisions of this section. No decision shall become the judgment of the Court, however, except on the concurrence of at least three justices, and no law shall be declared unconstitutional under either the Constitution of Virginia or the Constitution of the United States except on the concurrence of at least a majority of all justices of the Supreme Court. If the justices composing any division shall differ as to the judgment to be rendered in any cause or if any justice of such division, within a time and in a manner to be fixed by the rules of the Court, shall certify that in his opinion any decision of such division of the Court is in conflict with a prior decision of the Court, or of one of the divisions thereof, the case shall be reheard and decided by the Court sitting en banc.

RATIONALE: Editorial change.

§ ~~17-95~~ 17.1-301. Presiding ~~judge~~ justice when Chief Justice absent.

In the absence of the Chief Justice, the ~~judge~~ justice longest in continuous service present shall be the presiding ~~judge~~ justice; ~~and if~~ If two or more ~~judges~~ shall justices have served for the same period, the justice senior in years of these present shall be the presiding ~~judge~~ justice.

RATIONALE: Language updated. No substantive change.

§ ~~17-95.1~~ 17.1-302. Senior justice.

A. Any Chief Justice or justice of the Supreme Court of Virginia who is eligible for retirement, other than for disability, with the prior consent of a majority of the members of the Court ~~first obtained~~, may elect to retire and be ~~known and~~ designated as a senior justice.

B. Any Chief Justice or justice who has retired from active service, as provided in subsection A, may be designated and assigned by the Chief Justice of the Supreme Court of Virginia to perform the duties of a justice of the Court.

C. While serving in such status, a senior justice shall be deemed to be serving in a temporary capacity and, in addition to the retirement benefits received by such justice, shall receive as compensation a sum equal to one-fourth of the total compensation of an active justice of the Supreme Court of Virginia for a similar period of service. A retired justice, while performing the duties of a senior justice, shall be furnished office space, a secretary, a telephone, and supplies as are furnished a justice of the Court.

D. A justice may terminate his status as a senior justice, or such status may be terminated by a majority of the members of the Court. Each justice designated a senior justice shall serve a one-year term unless the Court, by order or otherwise, extends the term for an additional year. There shall be

no limit on the number of terms a senior justice may so serve.

E. Only four retired justices shall serve as senior justices at any one time.

F. Nothing in this section shall be construed to increase the number of justices of the Supreme Court provided for in § 2 of Article VI of the Constitution of Virginia and ~~by § 17-93 pursuant thereto in § 17.1-300.~~

RATIONALE: Editorial changes.

~~§ 17-96~~ 17.1-309. Jurisdiction of writs of mandamus and prohibition.

The Supreme Court shall have jurisdiction to issue writs of mandamus and prohibition to the circuit and ~~city~~ district courts and to the State Corporation Commission and in all other cases in which such writs, respectively, would lie according to the principles of the common law; ~~provided.~~ *Provided* that no writ of mandamus, prohibition or any other summary process whatever shall issue in any case of the collection of revenue or attempt to collect the same, or to compel the collecting officers to receive anything in payment of taxes except such money as is legal tender for the payment of revenue, or in any case arising out of the collection of revenue in which the applicant for the writ of process has any other remedy adequate for the protection and enforcement of his individual right, claim and demand, if just.

RATIONALE: Language updated. No substantive change.

~~§ 17-97~~ 17.1-310. Habeas corpus, appeals, writs of error and supersedeas.

The *Supreme* Court shall also have jurisdiction to award writs of habeas corpus and of such appeals, writs of error and supersedeas as may be legally docketed in or transferred to the Court. In accordance with § 8.01-654, the Court shall have exclusive jurisdiction to award writs of habeas corpus upon petitions filed by prisoners held under the sentence of death.

RATIONALE: No substantive change

~~§ 17-98~~ 17.1-311. Where prohibition and mandamus issued and tried.

Writs of prohibition or mandamus from the Supreme Court shall issue and be tried at any place of session of the Court.

RATIONALE: No change.

~~§ 17-99~~ 17.1-304. Terms and sessions.

The *Supreme* Court shall hold one term annually, commencing at such time and continuing for such period as it may determine. Sessions shall be held at Richmond commencing at such times and continuing for such periods as the Court from time to time directs.

RATIONALE: No substantive change.

~~§ 17-100~~ 17.1-305. Special sessions.

The Supreme Court by an order entered of record, may direct a special session to be held at such time as it may deem proper.

RATIONALE: No substantive change. This section and the following section (former § 17-101) are being combined as both deal with special sessions of the Court and when they are held.

~~§ 17-101. Same; when requested by Governor or deemed proper by Chief Justice.~~

A special session may also be held, by order of the Chief Justice in vacation, on the written request of the Governor to him, or whenever *it is proper* in the opinion of the Chief Justice ~~it is proper~~. The time of holding the special session shall be designated in the order, which shall be directed to the clerk, who shall enter ~~the same~~ *it* in his record book and give notice thereof to each justice of the Court, ~~except the Chief Justice.~~

RATIONALE: No substantive change. This section and the preceding section § 17.1-305 (former § 17-100) are being combined as both deal with special sessions of the Court and when they are held.

~~§ 17-102~~ 17.1-306. What may be tried at special session; effect of decisions.

At any such special session, the *Supreme* Court, by consent of *the* parties or their counsel, may hear and determine any cause then ready for a hearing, or, without such consent, upon twenty days' previous notice in writing, given by a party desiring a hearing to the adverse party, of his intention to insist on the same. The Court, at such special session, shall, after notice to the parties or their counsel from the clerk of the Court, hear any cause which, in its opinion, the public interest ~~requires~~ *requires* to be heard and determined. Any judgment, decree or order entered or made at such special

session shall have the same effect and may be reviewed and reheard in like manner and subject to the same rules as a judgment, decree or order entered or made at a regular session.

RATIONALE: Editorial changes.

~~§ 17-103~~ 17.1-307. Information and recommendations as to other courts.

The Supreme Court, with the aid of the Executive Secretary, shall obtain the information to be contained in the reports to be made pursuant to ~~§ 17-57~~ 17.1-221 and present the same to the next regular session of the General Assembly, and at each recurring session, together with any recommendation it sees fit to make, looking to the equalization of the work of the ~~several~~ courts of record of this Commonwealth or any matter pertaining to the conduct of the work of the courts which may enable the General Assembly to have complete knowledge thereof.

RATIONALE: Editorial changes. A cross reference has been changed as appropriate.

~~§ 17-110~~ 17.1-312. Where criminal jurisdiction exercised.

The appellate jurisdiction of the Supreme Court in any criminal case may be exercised at any place of session, no matter where the court may have been held which rendered the judgment in such case.

RATIONALE: No change.

~~§ 17-110.1~~ 17.1-313. Review of death sentence.

A. A sentence of death, upon the judgment thereon becoming final in the circuit court, shall be reviewed on the record by the Supreme Court.

B. The proceeding in the circuit court shall be transcribed as expeditiously as practicable, and the transcript filed forthwith upon transcription with the clerk of the circuit court, who shall, within ten days after receipt of the transcript, compile the record as provided in Rule 5:14 and transmit it to the Supreme Court.

C. In addition to consideration of any errors in the trial enumerated by appeal, the court shall consider and determine:

1. Whether the sentence of death was imposed under the influence of passion, prejudice or any other arbitrary factor; and
2. Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

D. In addition to the review and correction of errors in the trial of the case, with respect to review of the sentence of death, the court may:

1. Affirm the sentence of death;
2. Commute the sentence of death to imprisonment for life; or
3. Remand to the trial court for a new sentencing proceeding.

E. The Supreme Court may accumulate the records of all capital felony cases tried within such period of time as the court may determine. The court shall consider such records as are available as a guide in determining whether the sentence imposed in the case under review is excessive. Such records as are accumulated shall be made available to the circuit courts.

F. Sentence review shall be in addition to appeals, if taken, and review and appeal may be consolidated. The defendant and the Commonwealth shall have the right to submit briefs within time limits imposed by the court, either by rule or order, and to present oral argument.

G. The Supreme Court shall, in setting its docket, give priority to the review of cases in which the sentence of death has been imposed over other cases pending in the Court. In setting its docket, the Court shall also give priority to the consideration and disposition of petitions for writs of habeas corpus filed by prisoners held under sentence of death.

RATIONALE: The provisions of former § 17-110.2 have been added into this section as a logical continuation of the subject matter.

~~§ 17-110.2. Priority given to such review.~~

~~The Supreme Court shall, in setting its docket, give priority to the review of cases in which the sentence of death has been imposed over other cases pending in the Court. In setting its docket, the Court shall also give priority to the consideration and disposition of petitions for writs of habeas corpus filed by prisoners held under sentence of death.~~

RATIONALE: Deleted. The provisions of this section have been added to § 17.1-313 as subsection G (former § 17-110.1).

~~§ 17-111. Appointment and bonds of clerks.~~

~~The Supreme Court, at one place of session, may, if it see fit, appoint and take bond from the clerk of the Court at the other place.~~

RATIONALE: Repeal. The provisions of this section are obsolete.

~~§ 17-111.1 17.1-314. Executive Secretary to Court.~~

The Office of Executive Secretary to the Supreme Court, to be filled by a person having the qualifications required of a judge of a court of record, is hereby created to be the court administrator for the Commonwealth. He shall be appointed by the Supreme Court, shall hold office at the pleasure of the Court, and during his term of office shall not engage in the private practice of law. He shall receive such compensation as may be fixed by the Court. He may, with the approval of the Court, employ such persons as are necessary for the performance of the duties of his office, whose compensation shall be fixed by the Court within the limits of the amounts appropriated by law.

RATIONALE: No change.

~~§ 17-111.2 17.1-315. Duties of Executive Secretary.~~

The Executive Secretary to the Supreme Court shall have the following duties:

- ~~(a) 1. He shall be the Secretary of the Judicial Council;~~
- ~~(b) 2. He shall be the Secretary of the Judicial Conference;~~
- ~~(c) 3. He shall assist the Chief Justice and the Supreme Court in the administration of the judicial branch of the government to the end that litigation may be expedited and the administration of justice improved in the courts of the Commonwealth, and he; and~~
4. He shall have such other duties as may be required of him by the Chief Justice or by the Supreme Court in the performance of the administrative functions of that Court.

RATIONALE: Editorial changes.

~~§ 17-111.3 17.1-316. Printing and binding reports of Supreme Court.~~

When notified by the reporter of the Supreme Court that he has sufficient copy to issue a volume of the Virginia Reports, or a substantial part thereof, the Executive Secretary of the Supreme Court of Virginia shall order the printing of such copy. The Executive Secretary of the Supreme Court of Virginia shall order sufficient copies for distribution as set forth in ~~§ 17-111.6 17.1-319~~ and for sale to the public.

All reports sold by authority of this section shall be sold at a price per volume fixed by the Executive Secretary, said price to be reasonable and sufficient to cover the cost of printing, binding, mailing and handling. The receipts from such sales shall be paid into the state treasury and credited as revenue to a special fund for use by the Supreme Court. The Executive Secretary may arrange for quantity, volume sales to book dealers or publishers for resale and on such quantity sales he may allow a reasonable discount; but the Executive Secretary may limit such sales whenever such sales would reduce the stock below a reasonable number of volumes to be held for sale to individuals for their own use.

RATIONALE: A cross reference has been changed to reflect the renumbering under this recodification.

~~§ 17-111.4 17.1-317. (For effective date - See note) Printing and distribution of advance sheets of such reports.~~

A. In addition to the copies authorized to be printed and bound under ~~§ 17-111.3 17.1-316~~, the Executive Secretary of the Supreme Court of Virginia may have printed, for sale as advance sheets, a number of copies of each such report sufficient to fill orders received for advance sheets. He shall fix the price for advance sheets in an amount to cover the cost of printing, mailing and handling. All the funds collected from the sale of advance sheets shall be paid into the state treasury and reported to the Comptroller for credit to the general fund of the Commonwealth.

B. The Executive Secretary of the Supreme Court of Virginia may also have printed as advance sheets a number of copies of each such report sufficient to furnish one copy of each such report to the following for their use and the use of their successors in office:

1. The Clerk of the Supreme Court;
2. The reporter of the Supreme Court;
3. The judges of each court of record of this Commonwealth;
4. The Division of Legislative Services;

5. The Secretary of the Virginia State Bar;
6. Each justice of the Supreme Court;
7. The members of the State Corporation Commission;
8. Each judge of a general district court and each judge of a juvenile and domestic relations district court and such district courts as shall be designated by the Executive Secretary of the Supreme Court of Virginia not to exceed 250 copies;
9. The Attorney General, his deputies and assistants upon written application to the Executive Secretary of the Supreme Court of Virginia; and
10. Any member of the General Assembly upon written application to the Executive Secretary of the Supreme Court of Virginia.

RATIONALE: A cross reference change has been made as appropriate.

§ ~~17-111.4~~ 17.1-317. (Delayed effective date - See notes) Printing and distribution of advance sheets of such reports.

A. In addition to the copies authorized to be printed and bound under § ~~17-111.3~~ 17.1-316, the Executive Secretary of the Supreme Court of Virginia may have printed, for sale as advance sheets, a number of copies of each such report sufficient to fill orders received for advance sheets. He shall fix the price for advance sheets in an amount to cover the cost of printing, mailing and handling. All the funds collected from the sale of advance sheets shall be paid into the state treasury and reported to the Comptroller for credit to the general fund of the Commonwealth.

B. The Executive Secretary of the Supreme Court of Virginia may also have printed as advance sheets a number of copies of each such report sufficient to furnish one copy of each such report to the following for their use and the use of their successors in office:

1. The Clerk of the Supreme Court;
2. The reporter of the Supreme Court;
3. The judges of each court of record of this Commonwealth;
4. The Division of Legislative Services;
5. The Secretary of the Virginia State Bar;
6. Each justice of the Supreme Court;
7. The members of the State Corporation Commission;
8. Each judge of a general district court and each judge of a family court and such district courts as shall be designated by the Executive Secretary of the Supreme Court of Virginia not to exceed 250 copies;
9. The Attorney General, his deputies and assistants upon written application to the Executive Secretary of the Supreme Court of Virginia; and
10. Any member of the General Assembly upon written application to the Executive Secretary of the Supreme Court of Virginia.

RATIONALE: The same change in cross reference is being made here as in the previous rendition of this section.

§ ~~17-111.5~~ 17.1-318. Printing and distribution of Rules of the Supreme Court.

A. The Executive Secretary of the Supreme Court of Virginia shall have printed sufficient copies of the Rules of the Supreme Court and amendments thereto, adopted from time to time pursuant to subsection A of § 8.01-3 for delivery pursuant to this section.

The ~~Director~~ Executive Secretary shall deliver:

1. One copy of such rules and amendments thereto to the following:
 - a. Each justice of the Supreme Court,
 - b. The Clerk of the Supreme Court,
 - c. The judges of each court of this Commonwealth,
 - d. The clerk of each court of this Commonwealth,
 - e. The Secretary of the Virginia State Bar,
 - f. The Clerk of the House of Delegates,
 - g. The Clerk of the Senate,
 - h. The Division of Legislative Services,
 - i. Each member of the General Assembly,
 - j. The clerk of each of the district courts of the United States held in this Commonwealth,

- k. The Library of Virginia, *and*
- l. The State Law Library;
- 2. Six copies of such rules and amendments to each of the following:
 - a. The Attorney General,
 - b. The State Corporation Commission, *and*
 - c. The Virginia Workers' Compensation Commission;
- 3. Annually on the request of the respective deans of the accredited schools of law in this Commonwealth, such number of copies of the rules and the amendments unincorporated therein, from time to time, as each such dean shall certify to him is needed for instructional purposes; and
- 4. To the Secretary of the Virginia State Bar, from time to time, such number of copies as the Secretary shall from time to time request. The Secretary shall distribute such rules and amendments from time to time to the members of the Virginia State Bar, and to others whom he deems interested in and affected by the same.

B. The Executive Secretary of the Supreme Court of Virginia shall fix the price for each copy of the rules and amendments distributed in an amount to cover the cost of printing, mailing, and handling, and shall collect such costs from the distributees set forth in subdivisions A3 and A4 of this section and pay all such funds collected into the state treasury.

RATIONALE: Editorial changes

§ ~~17-111.6~~ 17.1-319. (For effective date - See note) Custody and distribution of reports of Supreme Court; Court of Appeals.

A. The Executive Secretary of the Supreme Court of Virginia shall be charged with the custody, disposal and sale of the published reports of the decisions of the Supreme Court and the Court of Appeals. One copy of each volume of the reports hereafter published shall be furnished to each of the following for their use and the use of their successors in office:

- 1. The Clerk and the Executive Secretary of the Supreme Court;
- 2. The reporter of the Supreme Court;
- 3. The judges and retired judges of each circuit court of this Commonwealth;
- 4. The clerk of each such court;
- 5. Each judge of a general district court and each judge of a juvenile and domestic relations district court, and such district courts as shall be designated by the Executive Secretary of the Supreme Court of Virginia not to exceed 250 copies;
- 6. The Clerk of the House of Delegates;
- 7. The Clerk of the Senate;
- 8. The Division of Legislative Services;
- 9. The Virginia Workers' Compensation Commission;
- 10. The Secretary of the Virginia State Bar;
- 11. The clerk of each of the district courts of the United States held in this Commonwealth for the use of the courts and the members of the bar practicing therein;
- 12. The attorney for the Commonwealth in counties and cities, and the county attorney in those counties which created the office of the county attorney;
- 13. The Attorney General, his deputies and assistants upon written application to the Executive Secretary of the Supreme Court of Virginia.

B. Two copies of each volume of the reports hereafter published shall be furnished to each of the justices of the Supreme Court, to each of the judges of the Court of Appeals and to each of the members of the State Corporation Commission for their use and for the use of their successors in office, except that each justice, judge or member shall be entitled to retain for personal use one copy of each volume in which appear any opinions authored by him. Eight copies of each volume of the reports hereafter published shall be furnished to each university and college in the Commonwealth in which a law school approved by the American Bar Association is established. Fifteen copies of each such volume shall be placed in the State Law Library at Richmond ~~and two copies shall be placed in the other law library of the Supreme Court at Staunton.~~

C. He shall place in the Law Library at Richmond such additional copies of all of the decisions of the Supreme Court as are available, so as to make up fifteen complete sets of the Virginia Reports for the justices' private offices, conference rooms and the Law Library.

RATIONALE: No substantive changes. Reference to the Supreme Court's office at Staunton has been stricken since that office does not exist.

~~§ 17-111.6 17.1-319.~~ (Delayed effective date - See notes) Custody and distribution of reports of Supreme Court; Court of Appeals.

A. The Executive Secretary of the Supreme Court of Virginia shall be charged with the custody, disposal and sale of the published reports of the decisions of the Supreme Court and the Court of Appeals. One copy of each volume of the reports hereafter published shall be furnished to each of the following for their use and the use of their successors in office:

1. The Clerk and the Executive Secretary of the Supreme Court;
2. The reporter of the Supreme Court;
3. The judges and retired judges of each circuit court of this Commonwealth;
4. The clerk of each such court;
5. Each judge of a general district court and each judge of a family court, and such district courts as shall be designated by the Executive Secretary of the Supreme Court of Virginia not to exceed 250 copies;

6. The Clerk of the House of Delegates;
7. The Clerk of the Senate;
8. The Division of Legislative Services;
9. The Virginia Workers' Compensation Commission;
10. The Secretary of the Virginia State Bar;
11. The clerk of each of the district courts of the United States held in this Commonwealth for the use of the courts and the members of the bar practicing therein;
12. The attorney for the Commonwealth in counties and cities, and the county attorney in those counties which created the office of the county attorney;
13. The Attorney General, his deputies and assistants upon written application to the Executive Secretary of the Supreme Court of Virginia.

B. Two copies of each volume of the reports hereafter published shall be furnished to each of the justices of the Supreme Court, to each of the judges of the Court of Appeals and to each of the members of the State Corporation Commission for their use and for the use of their successors in office, except that each justice, judge or member shall be entitled to retain for personal use one copy of each volume in which appear any opinions authored by him. Eight copies of each volume of the reports hereafter published shall be furnished to each university and college in the Commonwealth in which a law school approved by the American Bar Association is established. Fifteen copies of each such volume shall be placed in the State Law Library at Richmond ~~and two copies shall be placed in the other law library of the Supreme Court at Staunton.~~

C. He shall place in the Law Library at Richmond such additional copies of all of the decisions of the Supreme Court as are available, so as to make up fifteen complete sets of the Virginia Reports for the justices' private offices, conference rooms and the Law Library.

RATIONALE: No substantive changes. Reference to the Supreme Court's office at Staunton has been stricken since that office does not exist.

~~§ 17-111.7 17.1-320.~~ Furnishing reports to law libraries destroyed by fire.

The Executive Secretary of the Supreme Court of Virginia is authorized and directed to furnish to the law school of any university or incorporated college in the Commonwealth whose law library has been destroyed by fire, out of any surplus copies on hand and available for such distribution, eight copies of each volume of the Virginia Reports, or so many thereof as may be necessary to replace copies of such volumes which have been destroyed by such fire.

Nothing in this section shall be construed to require the Executive Secretary of the Supreme Court of Virginia to purchase any such copies for distribution hereunder.

RATIONALE: No change.

~~§ 17-112. Tipstaff and erier; their duties and pay.~~

~~The Supreme Court may appoint a tipstaff and a erier, who shall perform such duties as the Court may require and shall receive out of the state treasury such reasonable compensation as the Court may allow and be removable at its pleasure.~~

RATIONALE: Repeal. These officers no longer exist.

~~§ 17-113~~ 17.1-321. Reporter of Court; his appointment and salary.

The Supreme Court shall have authority to contract with some suitable person to report such of its decisions as the judges thereof Court shall direct, at such compensation as may be appropriated by law for the purpose, payable in monthly installments.

RATIONALE: Editorial changes. This section has been combined with former § 17-114 since both deal with appointment of the Court reporter.

~~§ 17-114. Court may change Reporter.~~

The Court may at any time put an end to such contract and contract with another person for performing the service, upon the same terms.

RATIONALE: Delete. The provisions of this section are being combined with former § 17-113 (now § 17.1-321) since both deal with appointment of the Court reporter.

~~§ 17-115~~ 17.1-322. Duties.

The Reporter shall prepare and deliver from time to time to such printer as the Comptroller may direct manuscript reports of such decisions of the Court as the judges thereof shall direct, with an abstract of the points decided in each case and an index to the contents of the volume, a table of cases reported, a table of cases cited and a table of Virginia statutes cited and construed in the volume. The Reporter shall examine and correct the proof sheets thereof as they shall be furnished him by the printer.

RATIONALE: No change.

~~§ 17-116~~ 17.1-323. Clerk to deliver opinions to Reporter.

In those cases which the Reporter is directed to report, copies of the reasons stated in writing, under Article VI, Section 6 of the Constitution of Virginia, shall be delivered by the clerk of the Court to the Reporter.

RATIONALE: No change.

Chapter 3-1 4.

The Court of Appeals.

~~§ 17-116.01~~ 17.1-400. Creation and organization; election and terms of judges; oath; vacancies; qualifications; incompatible activities prohibited; chief judge.

A. The Court of Appeals of Virginia is hereby established effective January 1, 1985. It shall consist of ten judges who shall be elected for terms of eight years by the majority of the members elected to each house of the General Assembly. ~~The first such election shall be held during 1984 at a regular or special session of the General Assembly.~~ Before entering upon the duties of the office, a judge of the Court of Appeals shall take the oath of office required by law. The oath shall be taken before a justice of the Supreme Court of Virginia or before any officer authorized by law to administer an oath. When any vacancy exists while the General Assembly is not in session, the Governor may appoint a successor to serve until thirty days after the commencement of the next regular session of the General Assembly. Whenever a vacancy occurs or exists in the office of a judge of the Court of Appeals while the General Assembly is in session, or when the term of office of a judge of the Court of Appeals will expire or the office will be vacated at a date certain between the adjournment of the General Assembly and the commencement of the next session of the General Assembly, a successor may be elected at any time during a session preceding the date of such vacancy by the vote of a majority of the members elected to each house of the General Assembly for a full term and, upon qualification, the successor shall enter at once upon the discharge of the duties of the office; however, such successor shall not qualify prior to the predecessor leaving office. All judges of the Court of Appeals shall be residents of the Commonwealth and shall, at least five years prior to the appointment or election, have been licensed to practice law in the Commonwealth. No judge of the Court of Appeals, during his continuance in office, shall engage in the practice of law within or without the Commonwealth or seek or accept any nonjudicial elective office, or hold any other office of public trust, or engage in any other incompatible activity. ~~Upon the election and qualification of the judges, and the election of a chief judge, the Court is authorized to convene and organize, and on January 1, 1985, to begin the discharge of the judicial business assigned to the Court by law.~~

B. The chief judge shall be elected by majority vote of the judges of the Court of Appeals to

serve a term of four years.

C. If a judge of the Court of Appeals is absent or unable through sickness, disability, or any other reason to perform or discharge any official duty or function authorized or required by law, a (i) retired chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of the Court of Appeals of Virginia, or (iii) retired judge of a circuit court of Virginia, with his or her prior consent, may be appointed by the chief judge of the Court of Appeals, acting upon his own initiative or upon a personal request from the absent or disabled judge, to perform or discharge the official duties or functions of the absent or disabled judge until that judge shall again be able to attend his duties. The chief judge of the Court of Appeals shall be notified forthwith at the time any absent or disabled judge is able to return to his duties.

D. The chief judge of the Court of Appeals may, upon his own initiative, designate a (i) retired chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of the Court of Appeals of Virginia, or (iii) retired or active judge of a circuit court of Virginia, with the prior consent of such justice or judge, to perform or discharge the official duties or functions of a judge of the Court of Appeals if there is a need to do so due to congestion in the work of the court. Nothing in this subsection shall be construed to increase the number of judges of the Court of Appeals provided for in subsection A of this section.

E. Any retired chief justice, retired justice, retired chief judge or active or retired judge sitting on the Court of Appeals pursuant to subsection C or D shall receive from the state treasury actual expenses for the time he or she is actually engaged in holding court.

F. The powers and duties herein conferred or empowered upon the chief judge of the Court of Appeals may be exercised and performed by any judge or any committee of judges of the court designated by the chief judge for such purpose.

RATIONALE: Transition language deleted. An amendment also clarifies that a pro tempore appointment is for 30 days after the commencement of the next regular session-not a special session.

§ ~~17-116.01-1~~ 17.1-401. Senior judge.

A. Any chief judge or judge of the Court of Appeals who is eligible for retirement, other than for disability, with the consent of a majority of the members of the court first obtained, may elect to retire and be known and designated as a senior judge.

B. Any chief judge or judge who has retired from active service, as provided in subsection A, may be designated and assigned by the Chief Judge of the Court of Appeals to perform the duties of a judge of the court.

C. While serving in such status, a senior judge shall be deemed to be serving in a temporary capacity and, in addition to the retirement benefits received by such judge, shall receive as compensation a sum equal to one-fourth of the total compensation of an active judge of the Court of Appeals for a similar period of service. A retired judge, while performing the duties of a senior judge, shall be furnished office space, a secretary, a telephone, and supplies as are furnished a judge of the court.

D. A judge may terminate his status as a senior judge, or such status may be terminated by a majority of the members of the court. Each judge designated a senior judge shall serve a one-year term unless the court, by order or otherwise, extends the term for an additional year. There shall be no limit on the number of terms a senior judge may so serve.

E. Only three retired judges shall serve as senior judges at any one time.

F. Nothing in this section shall be construed to increase the number of judges of the Court of Appeals provided for in § ~~17-116.01~~ 17.1-400.

RATIONALE: Cross reference is changed as appropriate.

§ ~~17-116.02~~ 17.1-402. Sessions; panels; quorum; presiding judges; hearings en banc.

A. The Court of Appeals shall sit at such locations within the Commonwealth as the chief judge, upon consultation with the other judges of the court, shall designate so as to provide, insofar as feasible, convenient access to the various geographic areas of the Commonwealth. The chief judge shall schedule sessions of the ~~Court~~ court as required to discharge expeditiously the business of the ~~Court~~ court.

B. The Court of Appeals shall sit in panels of at least three judges each. The presence of all

judges in the panel shall be necessary to constitute a quorum. The chief judge shall assign the members to panels and, insofar as practicable, rotate the membership of the panels. The chief judge shall preside over any panel of which he is a member and shall designate the presiding judges of the other panels.

C. Each panel shall hear and determine, independently of the others, the petitions for appeal and appeals granted in criminal cases and the other cases assigned to that panel.

D. The Court of Appeals shall sit en banc (i) when there is a dissent in the panel to which the case was originally assigned and an aggrieved party requests an en banc hearing and at least two other judges of the court vote in favor of such a hearing, or (ii) when any judge of any panel shall certify that in his opinion a decision of such panel of the ~~Court~~ court is in conflict with a prior decision of the ~~Court~~ court or of any panel thereof and two other judges of the ~~Court~~ court concur in that view. The ~~Court~~ court may sit en banc upon its own motion at any time, in any case in which a majority of the ~~Court~~ court determines it is appropriate to do so. The ~~Court~~ court sitting en banc shall consider and decide the case and may overrule any previous decision by any panel or of the full ~~Court~~ court.

E. The ~~Court~~ court may sit en banc with fewer than ten but not fewer than eight judges. In all cases decided by the ~~Court~~ court en banc, the concurrence of at least a majority of the judges sitting shall be required to reverse a judgment, in whole or in part.

RATIONALE: Editorial changes.

§ ~~17-116.03~~ 17.1-403. Rules of practice, procedure, and internal processes; promulgation by Supreme Court; amendments; summary disposition of appeals without merit.

~~Prior to July 1, 1984, the~~ The Supreme Court shall prescribe and publish the initial rules governing practice, procedure, and internal processes for the Court of Appeals designed to achieve the just, speedy, and inexpensive disposition of all litigation in that court consistent with the ends of justice and to maintain uniformity in the law of the Commonwealth. Before amending the rules thereafter, the Supreme Court shall receive and consider recommendations from the Court of Appeals. The rules shall prescribe procedures governing the summary disposition of appeals which are determined to be without merit.

RATIONALE: Transition language deleted.

§ ~~17-116.04~~ 17.1-404. Original jurisdiction in matters of contempt and injunctions, writs of mandamus, prohibition and habeas corpus.

The Court of Appeals shall have authority to punish for contempt. A judge of the Court of Appeals shall exercise initially the authority concerning injunctions vested in a justice of the Supreme Court by § 8.01-626 in any case over which the court would have appellate jurisdiction as provided in §§ ~~17-116.05~~ 17.1-405 and ~~17-116.05-1~~ 17.1-406. In addition, in such cases over which the court would have appellate jurisdiction, the court shall have original jurisdiction to issue writs of mandamus, prohibition and habeas corpus.

RATIONALE: Cross references changed as appropriate.

§ ~~17-116.05~~ 17.1-405. (For effective date - See note) Appellate jurisdiction - Administrative agency, Virginia Workers' Compensation Commission, and domestic relations appeals.

Any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from a decision of an administrative agency;
2. Any final decision of the Virginia Workers' Compensation Commission;
3. Any final judgment, order, or decree of a circuit court involving:
 - a. Affirmance or annulment of a marriage;
 - b. Divorce;
 - c. Custody;
 - d. Spousal or child support;
 - e. The control or disposition of a child;
 - f. Any other domestic relations matter arising under Title 16.1 or Title 20; or
 - g. Adoption under Chapter 11 (§ 63.1-220 et seq.) of Title 63.1;
4. Any interlocutory decree or order entered in any of the cases listed in this section (i) granting, dissolving, or denying an injunction or (ii) adjudicating the principles of a cause.

RATIONALE: No change.

~~§ 17-116.05~~ 17.1-405. (Delayed effective date - See notes) Appellate jurisdiction - Administrative agency, Virginia Workers' Compensation Commission, and domestic relations appeals.

Any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from a decision of an administrative agency;
2. Any final decision of the Virginia Workers' Compensation Commission;
3. Any final judgment, order, or decree of a circuit or family court involving:
 - a. Affirmance or annulment of a marriage;
 - b. Divorce;
 - c. Custody;
 - d. Spousal or child support;
 - e. The control or disposition of a child;
 - f. Any other domestic relations matter arising under Title 16.1 or Title 20;
 - g. Adoption under Chapter 11 (§ 63.1-220 et seq.) of Title 63.1;
 - h. Judicial review of school board actions pursuant to § 22.1-87 and of hearing officer decisions pursuant to §§ 22.1-214 and 22.1-214.1; or
 - i. Records of birth pursuant to § 32.1-260.
4. Any interlocutory decree or order entered in any of the cases listed in this section (i) granting, dissolving, or denying an injunction or (ii) adjudicating the principles of a cause.

RATIONALE: No change.

~~§ 17-116.05-1~~ 17.1-406. Petitions for appeal; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may present a petition for appeal to the Court of Appeals from (i) any final conviction in a circuit court of a traffic infraction or a crime, except where a sentence of death has been imposed, (ii) any final decision of a circuit court on an application for a concealed weapons permit pursuant to subsection D of § 18.2-308 or (iii) any final order of a circuit court involving involuntary treatment of prisoners pursuant to § 53.1-40.1. The Commonwealth or any county, city or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party previously could have petitioned the Supreme Court for a writ of error under § 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court from a conviction in which a sentence of death is imposed, from a final decision, judgment or order of a circuit court involving a petition for a writ of habeas corpus, from any final finding, decision, order, or judgment of the State Corporation Commission, and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

RATIONALE: No change.

~~§ 17-116.05-2~~ 17.1-407. Procedures on appeal.

A. The notice of appeal in all cases within the jurisdiction of the court shall be filed with the clerk of the trial court or the clerk of the Virginia Workers' Compensation Commission, as appropriate, and a copy of such notice shall be mailed or delivered to all opposing counsel and parties not represented by counsel, and to the clerk of the Court of Appeals. The clerk shall endorse thereon the day and year he received it.

B. Appeals pursuant to ~~§ 17-116.05~~ 17.1-405 are appeals of right. The clerk of the Court of Appeals shall refer each case for which a notice of appeal has been filed, other than appeals in criminal cases, to a panel of the court as the court may direct.

C. Each petition for appeal in a criminal case shall be referred to one or more judges of the Court of Appeals as the court shall direct. A judge to whom the petition is referred may grant the petition on the basis of the record without the necessity of oral argument. The clerk shall refer each appeal for which a petition has been granted to a panel of the court as the court shall direct.

D. If the judge to whom a petition is initially referred does not grant the appeal, counsel for the petitioner shall be entitled to state orally before a panel of the court the reasons why his appeal should be granted. If all of the judges of the panel to whom the petition is referred are of the opinion

that the petition ought not be granted, the order denying the appeal shall state the reasons for the denial. Thereafter, no other petition in the matter shall be entertained in the Court of Appeals.

RATIONALE: No change.

~~§ 17-116.05:3 17.1-408.~~ Time for filing; notice; petition.

The notice of appeal to the Court of Appeals shall be filed in every case within the court's appellate jurisdiction as provided in § 8.01-675.3. The petition for appeal in a criminal case shall be filed not more than forty days after the filing of the record with the Court of Appeals. However, a thirty-day extension may be granted in the discretion of the court in order to attain the ends of justice. When an appeal from an interlocutory decree or order is permitted in a criminal case, the petition for appeal shall be presented within the forty-day time limitation provided in this section.

RATIONALE: No change.

~~§ 17-116.05:4. Transitional provision.~~

A. ~~In any case within the appellate jurisdiction of the Court of Appeals in which the judgment or other order appealed from is entered by the circuit court on or after October 1, 1984, or by the Virginia Workers' Compensation Commission on or after November 1, 1984, appeal shall be only to the Court of Appeals. All filings, proceedings and actions shall be in accordance with the Rules of Court promulgated for the Court of Appeals. The Clerk of the Supreme Court is authorized to act as Clerk of the Court of Appeals on all matters appealed to the Court of Appeals on or before January 1, 1985. Until the judges of the Court of Appeals have qualified, any justice of the Supreme Court is authorized to exercise all powers that would be required of a judge of the Court of Appeals prior to a hearing upon any case appealed to the Court of Appeals before January 1, 1985.~~

B. ~~All cases within the original jurisdiction of the Court of Appeals under § 17-116.04 shall continue to be within the jurisdiction of the Supreme Court until January 1, 1985.~~

RATIONALE: Repeal. The transition provisions for the Court of Appeals are no longer necessary.

~~§ 17-116.05:5. Appellate jurisdiction of cases from experimental family courts.~~

~~Any aggrieved party may appeal to the Court of Appeals from:~~

~~1. Any final judgment, order, or decree of an experimental family court designated by the Judicial Council of Virginia pursuant to § 20-96.1 involving:~~

~~a. Suits for annulling or affirming marriage and for divorce that are referred by the designated circuit courts;~~

~~b. Cases originating in the experimental family courts involving the custody, visitation or civil support of a child, or spousal support, or involving the termination of residual parental rights and responsibilities when such cases are heard by a judge sitting as a judge of an experimental family court;~~

~~c. Cases in which jurisdiction for enforcement and modification of a decree has been transferred to the experimental family court by a circuit court pursuant to subsection (c) of § 20-79 when such cases are heard by a judge sitting as a judge of an experimental family court.~~

~~2. Any interlocutory decree or order entered in any of the cases listed in subdivision 1 of this section granting, dissolving, or denying an injunction.~~

RATIONALE: Repeal. Provisions related to the experimental family court are no longer necessary.

~~§ 17-116.06 17.1-409.~~ Certification to the Supreme Court.

A. In any case in which an appeal has been taken to or filed with the Court of Appeals, the Supreme Court in its discretion, on motion of the Court of Appeals, or on its own motion, may certify the case for review by the Supreme Court before it has been determined by the Court of Appeals. The effect of such certification shall be to transfer jurisdiction over the case to the Supreme Court for all purposes.

B. Such certification may be made only when, in its discretion, the Supreme Court determines that:

1. The case is of such imperative public importance as to justify the deviation from normal appellate practice and to require prompt decision in the Supreme Court, or

2. The docket or the status of the work of the Court of Appeals is such that the sound or expeditious administration of justice requires that jurisdiction over the case be transferred to the

Supreme Court.

RATIONALE: No change.

§ ~~17-116.07~~ 17.1-410. Disposition of appeals; finality of decisions.

A. Each appeal of right taken to the Court of Appeals and each appeal for which a petition for appeal has been granted shall be considered by a panel of the court.

When the Court of Appeals has (i) rejected a petition for appeal, (ii) dismissed an appeal in any case in accordance with the Rules of Court, or (iii) decided an appeal, its decision shall be final, without appeal to the Supreme Court, in:

1. Traffic infraction and misdemeanor cases where no incarceration is imposed;
2. Cases originating before any administrative agency or the Virginia Workers' Compensation Commission;
3. Cases involving the affirmance or annulment of a marriage, divorce, custody, spousal or child support or the control or disposition of a juvenile and other domestic relations cases arising under Title 16.1 or Title 20, or involving adoption under Chapter 11 (§ 63.1-220 et seq.) of Title 63.1;
4. Appeals in criminal cases pursuant to §§ 19.2-398 and 19.2-401. Such finality of the Court of Appeals' decision shall not preclude a defendant, if he is convicted, from requesting the Court of Appeals or Supreme Court on direct appeal to reconsider an issue which was the subject of the pretrial appeal; and
5. Appeals involving involuntary treatment of prisoners pursuant to § 53.1-40.1.

B. Notwithstanding the provisions of subsection A, in any case other than an appeal pursuant to § 19.2-398, in which the Supreme Court determines on a petition for review that the decision of the Court of Appeals involves a substantial constitutional question as a determinative issue or matters of significant precedential value, review may be had in the Supreme Court in accordance with the provisions of § ~~17-116.08~~ 17.1-411.

RATIONALE: Cross reference change has been made as appropriate.

§ ~~17-116.08~~ 17.1-411. Review by the Supreme Court.

Except where the decision of the Court of Appeals is made final under § ~~17-116.07~~ 17.1-410 or § 19.2-408, any party aggrieved by a final decision of the Court of Appeals, including the Commonwealth, may petition the Supreme Court for an appeal. The Commonwealth, or any county, city, or town, may also petition the Supreme Court for review pursuant to § 19.2-317. The granting of such petitions shall be in the discretion of the Supreme Court.

RATIONALE: Cross reference change has been made as appropriate.

§ ~~17-116.09~~ 17.1-412. Affirmance, reversal, or modification of judgment; petition for appeal to Supreme Court upon award of new trial.

A judgment, order, conviction, or decree of a circuit court or award of the Virginia Workers' Compensation Commission may be affirmed, or it may be reversed, modified, or set aside by the Court of Appeals for errors appearing in the record. If the decision of the Court of Appeals is to reverse and remand the case for a new trial, any party aggrieved by the granting of the new trial may accept the remand or proceed to petition for appeal in the Supreme Court pursuant to § ~~17-116.08~~ 17.1-411.

RATIONALE: Cross reference change has been made as appropriate.

§ ~~17-116.010~~ 17.1-413. Opinions; reporting, printing and electronic publication.

A. The Court of Appeals shall state in writing the reasons for its decision (i) rejecting a petition for appeal or (ii) deciding a case after hearing. Subject to rules promulgated under § ~~17-116.03~~ 17.1-403 the Court in its discretion may render its decision by order or memorandum opinion. All orders and opinions of the Court of Appeals shall be preserved with the record of the case. Opinions designated by the Court of Appeals as having precedential value or as otherwise having significance for the law or legal system shall be expeditiously reported in separate Court of Appeals Reports in the same manner as the decisions and opinions of the Supreme Court. The clerk of the Court of Appeals shall retain in the clerk's office a list and brief summary of the case for all unpublished decisions and opinions of the Court of Appeals. The list of cases and summary shall be made available to any person upon request.

B. The Executive Secretary of the Supreme Court shall contract for the printing of the reports of the Supreme Court and the Court of Appeals and for the advance sheets of each court. He shall select

a printer for the reports and prescribe such contract terms as will ensure issuance of the reports as soon as practicable after a sufficient number of opinions are filed. He shall make such contracts after consultation with the Department of General Services and shall distribute these reports in accordance with the applicable provisions of law. He shall also provide for the electronic publication on the Internet of the opinions of the Supreme Court and Court of Appeals subject to conditions and restrictions established by each court regarding the electronic publication of its opinions.

RATIONALE: Cross reference change has been made as appropriate.

~~§ 47-416.011 17.1-414.~~ Facilities and supplies.

A. The Court of Appeals shall be housed in the City of Richmond and, if practicable, in the same building occupied by the Supreme Court. When facilities are required for the convening of panels in other areas of the Commonwealth, the chief judge of the Court of Appeals shall provide for such physical facilities as are available for the operation of the Court of Appeals. The Court of Appeals may use any public property of, or any property leased or rented to, the Commonwealth or any of its political subdivisions for the holding of court and for its ancillary functions upon proper agreement with the applicable authorities. The Court of Appeals may use any federal courtroom or other facility for the holding of court and for its ancillary functions upon proper agreement with the applicable authorities. Any expense incurred for use of such facilities may be paid from the funds appropriated by the General Assembly to the Court of Appeals.

B. The Court of Appeals shall purchase such books, pamphlets, publications, supplies, furnishings, and equipment as necessary for the efficient operation of the Court, and the cost thereof shall be paid by the clerk from the appropriation for the operation of the Court of Appeals.

C. The Court of Appeals shall utilize the State Law Library provided by § 42.1-60.

RATIONALE: No change.

~~§ 47-416.012 17.1-415.~~ Compensation for judges; travel expenses.

The judges of the Court of Appeals shall receive from the Commonwealth an annual salary which shall be fixed in the general appropriations act and set at an amount equal to ninety-five percent of the annual salary fixed by law for justices of the Supreme Court; ~~and the~~. The Chief Judge of the Court of Appeals shall receive \$1,000 per year in addition to the amount received by the other judges of the Court of Appeals. ~~When traveling on court business, each~~ Each judge shall be entitled to reimbursement for such of his actual expenses as are necessary and incidental to such travel. If conveyance is by public transportation, reimbursement shall be at the actual cost thereof. If conveyance is by private transportation, reimbursement shall be at the rate established for members of the General Assembly receive such amount as shall be fixed in the general appropriations act in lieu of travel, lodging and all other expenses incurred incident to the conduct of the business of the court.

RATIONALE: Language discussing expense reimbursement has been deleted in favor of reference to the budget which sets a specific amount paid in lieu of reimbursement.

~~§ 47-416.013 17.1-416.~~ Clerk; seal; deputies and other employees; clerk's fees.

There shall be a clerk of the Court of Appeals, who shall be appointed by and serve at the pleasure of the Court of Appeals. The clerk shall adopt a separate seal of office for the Court of Appeals; ~~such seal to be~~ as approved by the Court of Appeals. The number and salaries of the deputies and other employees necessary to perform the duties of the Court of Appeals shall be fixed by the Court of Appeals. The Supreme Court by rule of court may promulgate uniform fees for services rendered by the clerk.

RATIONALE: Editorial changes.

~~§ 47-416.014 17.1-417.~~ Research assistants and secretaries.

Each judge of the Court of Appeals shall be entitled to the services of one research assistant, who shall be a graduate of an accredited law school. Each judge shall also be entitled to the services of a secretary. The salaries of the research assistants and secretaries shall be fixed by the Court of Appeals and shall be paid from the appropriation to the Court of Appeals.

RATIONALE: No change.

Establishment; jurisdiction; etc.

~~§ 17-116.1~~ 17.1-500. Establishment of circuit courts; ~~consolidation of Richmond circuit courts.~~

(a) For the City of Williamsburg and James City County, and every other county in the Commonwealth, and the Cities of Alexandria, Bristol, Buena Vista, Charlottesville, Chesapeake, Clifton Forge, Colonial Heights, Danville, Fredericksburg, Hampton, Hopewell, Lynchburg, Martinsville, Newport News, Norfolk, Petersburg, Portsmouth, Radford, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, Waynesboro and Winchester, there shall be a circuit court, which shall be called the circuit court of such county or city, or county and city, as the case may be. Each city circuit court shall be the sole court of record for the city and have jurisdiction over each suit, motion, prosecution or thing now or heretofore properly pending in the former courts of record of the city and over the records of such courts, ~~and all judges of the courts of record of the city serving prior to June 1, 1973, shall be judges of the circuit court.~~ Any reference in this Code or in any act of the General Assembly to a corporation, hustings, law and chancery, law and equity, chancery or other court of record of a city shall apply to the circuit court thereof, mutatis mutandis.

~~(b), (c) [Repealed.]~~

~~(d) The judges of the Circuit Court of the City of Richmond whose divisions are consolidated by Chapter 628 of the 1981 Acts of Assembly, with the advice of the chief judge of the thirteenth judicial circuit, shall prepare and implement a plan for consolidation of the two former divisions, which shall become effective January 1, 1984. Any such plan shall provide for the consolidation of the circuit courts under one chief judge and the consolidation of the clerks' offices under one clerk and shall continue to provide for a clerk's office and a circuit court with full powers incident thereto in each of the two former divisions.~~

~~Notwithstanding any other provision of law, whenever a vacancy occurs or exists in the office of the clerk of either division of the Circuit Court of the City of Richmond prior to the effective date of the consolidation of the divisions, the clerk of the other division, without election, shall become the Clerk of the Circuit Court of the City of Richmond and shall perform all the duties thereof until the expiration of that clerk's existing term of office.~~

RATIONALE: Reference to the former divisions of the Richmond Circuit Court and their consolidation have been deleted. Transition language has been deleted.

~~§ 17-116.2~~ 17.1-501. Judges of ~~courts of record to become circuit judges~~ courts; selection, powers and duties of chief judges; exercise of appointive powers.

A. There shall be ~~so as~~ many judges of ~~the circuit courts of record~~ as may be fixed by the General Assembly. ~~On July 1, 1973, each judge of a court of record shall become circuit judge of the judicial circuit established by this chapter in which his residence is located; provided, that notwithstanding any provision of law to the contrary, the residency requirement shall not apply to any judge whose residence prior to July 1, 1973, is outside the boundaries of a new circuit created by § 17-119.1-1, if such judge is a resident of the circuit to which he was previously elected or appointed. This proviso shall also apply to any subsequent term to which he is elected.~~ The judges of each circuit shall select from their number by majority vote a judge who shall be the chief judge of the circuit, who shall serve for the term of two years. In the event such judges cannot agree as to who shall be chief judge, ~~such fact shall be communicated to the Chief Justice of the Supreme Court, who shall act as tie breaker.~~

B. The chief judge of the circuit shall ensure that the system of justice in his circuit operates smoothly and efficiently. He shall have authority to assign the work of the circuit ~~as between among~~ the judges, and in doing so he may consider the nature and categories of the cases to be assigned.

C. Unless otherwise provided by law, powers of appointment within a circuit shall be exercised by a majority of the judges of the circuit. In case of a tie, ~~such fact shall be communicated by the chief judge of such circuit to~~ the Chief Justice of the Supreme Court, ~~who~~ shall appoint a circuit judge from another circuit who shall act as tie breaker. Where the power of appointment is to be exercised by a majority of the judges of the Second Judicial Circuit and such appointment is to a local post, board or commission in Accomack or Northampton County, the resident judge or judges of the County of Accomack or Northampton shall exercise such appointment power as if he or they comprise the majority of the judges of the ~~Circuit circuit.~~

RATIONALE: Editorial changes have been made and the transition provisions of 1973 have

been deleted.

~~§ 17-116.3 17.1-502.~~ Administrator of circuit court system.

The Executive Secretary of the Supreme Court shall be the administrator of the circuit court system. He shall assist the chief judges in the performance of their administrative duties. He may employ such staff and other assistants, from state funds appropriated to him for the purpose, as may be necessary to carry out his duties, and may secure such office space as may be requisite, to be located in an appropriate place to be selected by the Executive Secretary.

RATIONALE: No change.

~~§ 17-116.4 17.1-503.~~ Rules of practice and procedure; rules not to preclude judges from hearing certain cases.

The Supreme Court may formulate rules of practice and procedure for the circuit courts following consultation with the chairmen of the House and Senate Courts of Justice Committees and the executive committee of the Judicial Conference of Virginia for courts of record. Such rules, subject to the strict construction of the provisions of § 8.01-4, which shall be the only rules of practice and procedure in the circuit courts of the Commonwealth, shall be included in the Code of Virginia as provided in § 8.01-3, subject to revision by the General Assembly.

No rule shall hereafter be promulgated under the limitations of § 8.01-4, or otherwise which would avoid or preclude the judge before whom an accused is arraigned in criminal cases from hearing all aspects of the case on its merits, or to avoid or preclude any judge in any case who has heard any part of the case on its merits, from hearing the case to its conclusion; ~~provided, however,~~ . However, another judge may hear portions of a case where a judge is required to disqualify himself, in cases in which a mistrial is declared, or in cases which have been reversed on appeal, or in the event of sickness, disability or vacation of the judge. The parties to any suit, action, cause or prosecution may waive the provisions of this section. Such waiver shall be entered of record.

RATIONALE: Editorial change only.

~~§ 17-117.~~ Circuit courts established for counties and cities.

For the City of Williamsburg and the County of James City, for that part of the County of Henrico which is without the corporate limits of the City of Richmond, for every other county, and for each of the Cities of Alexandria, Bristol, Buena Vista, Charlottesville, Clifton Forge, Colonial Heights, Fredericksburg, Hopewell, Lynchburg, Martinsville, Newport News, Norfolk, Petersburg, Portsmouth, Radford, Richmond, Roanoke, Salem, Staunton, Suffolk, and Waynesboro, there shall be a circuit court, which shall be called the circuit court of such county or city, or such city and county, as the case may be.

RATIONALE: Repeal. This section is covered by § 17-116.1 (now § 17.1-500).

~~§ 17-117.1.~~

Not set out.

~~§ 17-118 17.1-505.~~ Circuit court of county to constitute circuit court of certain cities.

The circuit court of any county, within which is situated any city which has undergone transition from a city of the second class to a city of the first class since the Constitution of 1902, went into effect, shall have concurrent jurisdiction with the circuit court of such city in all proceedings at law or in equity, except criminal prosecutions; and the circuit court of such county shall constitute the circuit court of such city; ~~provided that this.~~ This section shall not apply to the Cities of Bristol, Colonial Heights, Fredericksburg, Martinsville, Salem and Suffolk for which separate circuit courts have heretofore been established and which are continued.

RATIONALE: Editorial change.

~~§ 17-118.1.~~

Not set out.

~~§§ 17-119, 17-119.1.~~

Repealed by Acts 1973, c. 544.

~~§ 17-119.1-1 17.1-506.~~ Judicial circuits.

(1) 1. The City of Chesapeake shall constitute the first circuit.

(2) 2. The City of Virginia Beach and the Counties of Accomack and Northampton shall constitute the second circuit.

(3) 3. The City of Portsmouth shall constitute the third circuit.

- ~~(4)~~ 4. The City of Norfolk shall constitute the fourth circuit.
- ~~(5)~~ 5. The Cities of Franklin and Suffolk and the Counties of Isle of Wight and Southampton shall constitute the fifth circuit.
- ~~(6)~~ 6. The Cities of Emporia and Hopewell and the Counties of Prince George, Surry, Sussex, Greensville and Brunswick shall constitute the sixth circuit.
- ~~(7)~~ 7. The City of Newport News shall constitute the seventh circuit.
- ~~(8)~~ 8. The City of Hampton shall constitute the eighth circuit.
- ~~(9)~~ 9. The Cities of Williamsburg and Poquoson and the Counties of York, James City, Charles City, New Kent, Gloucester, Mathews, Middlesex, King William, and King and Queen shall constitute the ninth circuit.
- ~~(10)~~ 10. The City of South Boston and the Counties of Cumberland, Buckingham, Appomattox, Prince Edward, Charlotte, Lunenburg, Mecklenburg and Halifax shall constitute the tenth circuit.
- ~~(11)~~ 11. The City of Petersburg and the Counties of Dinwiddie, Nottoway, Amelia and Powhatan shall constitute the eleventh circuit.
- ~~(12)~~ 12. The City of Colonial Heights and the County of Chesterfield shall constitute the twelfth circuit.
- ~~(13)~~ 13. The City of Richmond shall constitute the thirteenth circuit.
- ~~(14)~~ 14. The County of Henrico shall constitute the fourteenth circuit.
- ~~(15)~~ 15. The City of Fredericksburg and the Counties of King George, Stafford, Spotsylvania, Caroline, Hanover, Lancaster, Northumberland, Westmoreland, Richmond and Essex shall constitute the fifteenth circuit.
- ~~(16)~~ 16. The City of Charlottesville and the Counties of Madison, Greene, Albemarle, Fluvanna, Goochland, Louisa, Orange and Culpeper shall constitute the sixteenth circuit.
- ~~(17)~~ 17. The County of Arlington and the City of Falls Church shall constitute the seventeenth circuit.
- ~~(18)~~ 18. The City of Alexandria shall constitute the eighteenth circuit.
- ~~(19)~~ 19. The City of Fairfax, and the County of Fairfax shall constitute the nineteenth circuit.
- ~~(20)~~ 20. The Counties of Loudoun, Fauquier and Rappahannock shall constitute the twentieth circuit.
- ~~(21)~~ 21. The City of Martinsville and the Counties of Patrick and Henry shall constitute the twenty-first circuit.
- ~~(22)~~ 22. The City of Danville and the Counties of Pittsylvania and Franklin shall constitute the twenty-second circuit.
- ~~(23)~~ 23. The Cities of Roanoke and Salem and the County of Roanoke shall constitute the twenty-third circuit.
- ~~(24)~~ 24. The Cities of Lynchburg and Bedford and the Counties of Nelson, Amherst, Campbell and Bedford shall constitute the twenty-fourth circuit.
- ~~(25)~~ 25. The Cities of Covington, Lexington, Staunton, Buena Vista, Clifton Forge and Waynesboro and the Counties of Highland, Augusta, Rockbridge, Bath, Alleghany, Botetourt and Craig shall constitute the twenty-fifth circuit.
- ~~(26)~~ 26. The Cities of Harrisonburg and Winchester and the Counties of Frederick, Clarke, Warren, Shenandoah, Page and Rockingham shall constitute the twenty-sixth circuit.
- ~~(27)~~ 27. The Cities of Galax and Radford and the Counties of Pulaski, Wythe, Carroll, Montgomery, Floyd, Giles, Bland and Grayson shall constitute the twenty-seventh circuit.
- ~~(28)~~ 28. The City of Bristol and the Counties of Smyth and Washington shall constitute the twenty-eighth circuit.
- ~~(29)~~ 29. The Counties of Tazewell, Buchanan, Russell and Dickenson shall constitute the twenty-ninth circuit.
- ~~(30)~~ 30. The City of Norton and the Counties of Wise, Scott and Lee shall constitute the thirtieth circuit.
- ~~(31)~~ 31. The Cities of Manassas and Manassas Park and the County of Prince William shall constitute the thirty-first circuit.

RATIONALE: Editorial change.

§ ~~17-119.1-2~~ 17.1-507. Number of judges; residence requirement; compensation; powers; etc.

A. For the several judicial circuits there shall be judges, the number as hereinafter set forth, who shall during their service reside within their respective circuits and whose compensation and powers shall be the same as now and hereafter prescribed for circuit judges. ~~The judges in office when this shall take effect shall continue in office for the term for which elected or appointed.~~

The number of judges of the circuits shall be as follows:

- First - 4
- Second - 10
- Third - 4
- Fourth - 9
- Fifth - 3
- Sixth - 2
- Seventh - 4
- Eighth - 4
- Ninth - 4
- Tenth - 3
- Eleventh - 3
- Twelfth - 4
- Thirteenth - 8
- Fourteenth - 4
- Fifteenth - 6
- Sixteenth - 5
- Seventeenth - 4
- Eighteenth - 3
- Nineteenth - 15
- Twentieth - 3
- Twenty-first - 3
- Twenty-second - 3
- Twenty-third - 6
- Twenty-fourth - 5
- Twenty-fifth - 4
- Twenty-sixth - 5
- Twenty-seventh - 4
- Twenty-eighth - 2
- Twenty-ninth - 3
- Thirtieth - 3
- Thirty-first - 5

B. ~~On and after January 1, 1975, no~~ No additional circuit court judge shall be authorized or provided for any judicial circuit until the Judicial Council has made a study of the need for such additional circuit court judge and has reported its findings and recommendations to the Courts of Justice Committees of the House of Delegates and Senate. In its study, the Judicial Council shall consider, and report its findings regarding, the reduced case load that will occur if family court judgeships are authorized in accordance with the provisions of Chapter 4.1, Article 2 (§ 16.1-69.6:1 et seq.) of Title 16.1. Nor shall the boundary of any judicial circuit be changed until a study has been made by the Judicial Council and a report of its findings and recommendations made to said Committees.

C. If the Judicial Council finds the need for an additional circuit court judge after a study is made pursuant to subsection B, the study shall be made available to the State Compensation Board and the Courts of Justice Committees of the House of Delegates and Senate. The State Compensation Board shall make a study of the need to provide additional courtroom security and deputy court clerk staffing. This study shall be reported to the Courts of Justice Committees of the House of Delegates and the Senate, and to the Department of Planning and Budget.

RATIONALE: Transition language has been deleted.

§ ~~17-119.2~~ 17.1-508. Judges in new or changed circuits; ratifying, validating and confirming certain actions.

(a) In any case heretofore or hereafter arising in which a judge has been judge of a circuit created under ~~§ 47-119.1-1~~ 17.1-506 as amended, and the counties and cities, or one or more of them, have been transferred to and constituted as part of a new judicial circuit and the remaining counties and cities constituted as a circuit, the judges of the respective circuits are hereby declared to be judges of said circuits in which they reside and their actions are hereby ratified, validated and confirmed.

(b), (c) ~~{Repealed.}~~

RATIONALE: Cross reference change has been made as appropriate.

~~§ 47-120~~ 17.1-509. Vacancies in office of judge.

(a) Whenever a vacancy occurs in the office of judge, a successor, who shall be a resident of the same circuit, shall be elected for a full term of eight years and upon qualification shall enter at once upon the discharge of the duties of his office. But, subject to the provisions of §§ ~~47-122~~ 17.1-511 and ~~47-122.1~~ 17.1-512, the Governor shall have the power during the recess of the General Assembly to fill pro tempore vacancies in such office. Such appointment to every vacancy shall be by commission to expire at the end of thirty days after the commencement of the next *regular* session of the General Assembly.

(b) ~~{Repealed.}~~

RATIONALE: Clarifies that a pro tempore appointment ends 30 days after the commencement of the next regular session-not a special session. Cross reference changes have been made as appropriate.

~~§ 47-121~~ 17.1-510. Election of judge of new circuit; how court held meanwhile.

If a new or additional circuit ~~be~~ is created, a judge *or judges* shall be ~~chosen therefor by the joint vote of the two houses of the General Assembly for a term of eight years commencing on the first day of February next following his election and the General Assembly, in any case in which the act creating a new circuit becomes effective during the same session or before or during a later session held prior to the regular commencement of term of the judge so elected, may, by a separate election, fill the vacancy occasioned by the creation of the new circuit. In any case in which the General Assembly cannot or does not fill the vacancy the Governor shall, as soon as the session is adjourned, appoint a judge for the new circuit for the time elapsing from the date of its creation until the commencement of the term elected or appointed thereto in the same manner as provided by law for the filling of vacancies or newly created judgeships in existing circuits.~~

During any vacancy from the creation of the new circuit until a judge has been elected or appointed to fill the vacancy as ~~provided herein~~ and has qualified, terms of the court shall be held by a judge or by judges designated as provided by law in cases of vacancies ~~otherwise occasioned~~.

RATIONALE: Special language concerning the creation of new circuits has been deleted as unnecessary. Should the General Assembly decide to create a new circuit, it would provide, in that legislation, for the timing of its creation and election of judges of that circuit. The constitutional powers of the legislature to elect and the Governor to appoint judges is unnecessarily restricted by the former language.

~~§ 47-122~~ 17.1-511. Investigation and certification of necessity before vacancies filled.

When a vacancy occurs in the office of judge of any court of record, the vacancy shall not be filled until, after investigation, the Supreme Court certifies that the filling of the vacancy is or is not necessary. If the court certifies that the filling of the vacancy is not necessary, it shall recommend to the General Assembly the manner of distributing the work of the judge; and the Governor shall not fill the vacancy.

RATIONALE: No change.

~~§ 47-122.1~~ 17.1-512. Election of successor judge before date of vacancy.

Whenever a vacancy occurs or exists in the office of a judge of a circuit while the General Assembly is in session, or whenever the term of office of a judge of a circuit court will expire or the office will be vacated at a date certain between the adjournment of the General Assembly and the commencement of the next session of the General Assembly, a successor judge may be elected at any time during a session preceding the date of such vacancy, by the vote of a majority of the members elected to each house of the General Assembly, for a term of eight years and upon qualification, the successor judge shall enter at once upon the discharge of the duties of his office. However, such successor judge shall not enter upon the discharge of his duties prior to the commencement of his

term of office.

RATIONALE: No change.

~~§ 17-123~~ 17.1-513. Jurisdiction of circuit courts.

The circuit courts shall have jurisdiction of proceedings by quo warranto or information in the nature of quo warranto and to issue writs of mandamus, prohibition and certiorari to all inferior tribunals created or existing under the laws of this Commonwealth, and to issue writs of mandamus in all matters of proceedings arising from or pertaining to the action of the boards of supervisors or other governing bodies of the several counties for which such courts are respectively held or in other cases in which it may be necessary to prevent the failure of justice and in which mandamus may issue according to the principles of common law. They shall have appellate jurisdiction in all cases, civil and criminal, in which an appeal may, as provided by law, be taken from the judgment or proceedings of any inferior tribunal.

They shall have original and general jurisdiction of all cases in chancery and civil cases at law, except cases at law to recover personal property or money not of greater value than \$100, exclusive of interest, and except such cases as are assigned to some other tribunal; also in all cases for the recovery of fees in excess of \$100; penalties or cases involving the right to levy and collect toll or taxes or the validity of an ordinance or bylaw of any corporation; and also, of all cases, civil or criminal, in which an appeal may be had to the Supreme Court. They shall also have original jurisdiction of all indictments for felonies and of presentments, informations and indictments for misdemeanors.

They shall have appellate jurisdiction of all cases, civil and criminal, in which an appeal, writ of error or supersedeas may, as provided by law, be taken to or allowed by such courts, or the judges thereof, from or to the judgment or proceedings of any inferior tribunal. They shall also have jurisdiction of all other matters, civil and criminal, made cognizable therein by law and when a motion to recover money is allowed in such tribunals, they may hear and determine the same, although it ~~be~~ *is* to recover less than \$100.

RATIONALE: No substantive change.

~~§ 17-123.1~~ 17.1-514. When plaintiff entitled to less than \$100; judgment for defendant.

In any personal action in a circuit court, wherein it is ascertained that less *than \$100, exclusive of interest*, is due to the plaintiff ~~than \$100, exclusive of interest~~, judgment shall be ~~given~~ for the defendant, unless the court enter of record that the matter in controversy was of greater value than \$100, exclusive of interest, in which case it may ~~give~~ *render* judgment for the plaintiff for what is ascertained to be due him, with or without costs, ~~as to it may seem right in the court's discretion~~.

RATIONALE: Rewritten for clarity and to update language.

~~§ 17-124~~ 17.1-515. Jurisdiction formerly in county courts.

The jurisdiction and powers which were vested in the county courts and the judges and officers thereof, respectively, on January 31, 1904, by the laws of this Commonwealth or under any will or other instrument of writing shall be vested in, exercised by and imposed upon the circuit courts and the judges and officers thereof, except when otherwise specially provided.

All such acts and proceedings of the circuit courts, judges and officers thereof, respectively, whether de jure or de facto officers, done or had since January 31, 1904, as may hereafter be done under this section, are hereby ratified and made valid.

RATIONALE: No change.

~~§§ 17-125 through 17-126.5.~~

~~Not set out.~~

~~§ 17-126.6.~~

~~Not set out.~~

~~§ 17-126.7.~~

~~Not effective.~~

~~§§ 17-127 through 17-127.16.~~

~~Repealed by Acts 1973, c. 544.~~

~~§ 17-127.17.~~

~~Repealed by Acts 1966, c. 232.~~

~~§§ 17-127.18 through 17-127.20.~~

~~Repealed by Acts 1973, c. 544.~~

~~§ 17-127.21 17.1-517. Number of terms; how fixed.~~

The chief judge of each circuit shall fix the terms of each of the courts within his circuit; provided, that there shall be ~~no less than~~ *at least* four terms of court each year, and the dockets for criminal and civil cases may be called on the same or different days in any courtroom of the circuit. Such terms shall be fixed by order, which shall be entered in the common-law order book in each court. The order fixing, or changing the terms of court shall be entered on or before January 1, to become effective July 1, and a copy of the order shall be forwarded to the Executive Secretary of the Supreme Court, who shall cause an abstract thereof to be published in the Code of Virginia, as a part of the Rules of Court.

RATIONALE: Editorial changes only.

~~§ 17-128. Continuance of term; powers of judge during same.~~

~~Any term of a circuit court for any of the counties or cities of the circuit may be continued by the judge thereof by adjournment until after the beginning of the term of the court for any other county or city of such circuit. And when such adjournment is until after the beginning of a term of the court for another county, the judge of the court shall have the power during such recess to perform any duty and to transact any business which is authorized by law to be done by judges of the circuit courts in vacation; but no term of the court shall be so continued beyond the day fixed by law for the beginning of the next regular term of the court for the county or city of the circuit whose term is so extended.~~

RATIONALE: Repeal. This section is obsolete.

~~§ 17-129 17.1-518. Special terms; when, how and by whom appointed.~~

If any term of a circuit court is to end, or has ended, without the dispatch of all its business or if there be a failure to hold any term or it is expedient in the opinion of the judge of the court to hold a special term for the trial of any cause pending in such court or of issues made up in any cause by consent of parties, or if the situation of a person confined in jail for trial in such circuit court makes it proper that his case should be disposed of before the next regular term thereof, or necessity in ~~his~~ *the judge's* opinion requires it, the judge of such circuit court or, if he is dead or is unable from any cause to hold his court, the judge of any other circuit court who has been designated to hold such terms, may, by order entered in such court or by a warrant directed to the clerk, appoint a special term thereof and prescribe in such order or warrant whether any venire is to be summoned to attend the term. The clerk shall inform the attorney for the Commonwealth and the sheriff ~~or sergeant~~ of such appointment, post a copy of the warrant or order at the front door of the courthouse and issue all proper process to such special term and the sheriff ~~or sergeant~~ shall execute the process.

RATIONALE: No substantive change. The term "sergeant" has been stricken as obsolete.

~~§ 17-130 17.1-519. Adjournment thereof to a future day.~~

Whenever any judge of a circuit court ~~shall have~~ *has* appointed a special term of any circuit court, by adjournment or warrant in the manner directed by § ~~17-129 17.1-518~~, and ~~he~~ shall afterward ascertain that he cannot hold the special term on the day appointed for it, he may, by warrant ~~under his hand~~, directed to the clerk of the court, adjourn it to such other day as he ~~may deem~~ *deems* proper. ~~Such~~ *The* warrant shall be transmitted by the judge to the clerk, who shall immediately enter it in the order book of the court and, as to the special term thereafter to be held under the continuance, proceed in all other respects in the manner directed by § ~~17-129 17.1-518~~.

RATIONALE: Editorial and cross reference changes have been made.

~~§ 17-131 17.1-520. What tried at a special term.~~

At any such special term:

(1) 1. Any civil case may be tried which could lawfully have been but was not tried at the last preceding term that was or should have been held;

(2) 2. Any motion for a judgment or other motion cognizable by such court may be heard and determined, whether it was pending at the preceding term or not;

(3) 3. Any criminal case may be tried at such special term as if it were a regular term, although at the preceding regular term the same may not have been pending in the court or may have been continued; and

(4) 4. Any cause or matter of controversy, at law or in chancery, then ready for hearing or which

may be made ready by consent of parties, may, with the consent of the parties to such cause or controversy, be heard and determined, although it could not lawfully have been heard at the preceding term that was or should have been held.

RATIONALE: No substantive change.

~~§ 17-132 17.1-521.~~ Who to hold ~~such~~ special term; powers.

Every such special term may be held by the judge of the circuit court or, if he ~~be~~ is dead or absent or ~~be~~ is so situated in respect to any cause pending in the court as in his opinion to make it improper for him to try it, by such other circuit or city judge as may be selected or designated in the manner prescribed by law. The judge so selected or designated shall hold ~~such the~~ special term and part of its session may be held by one judge and part of it by another. A judge selected or designated to hold a special term shall have all the powers and ~~be~~ is authorized to discharge all the duties of the judge of such circuit court.

RATIONALE: Editorial changes and language updated.

~~§ 17-133 17.1-522.~~ Adjournment of special term.

~~Such~~ A special term may be adjourned from time to time during intervals between the regular terms, as ~~to the judge may seem~~ necessary, for the dispatch of the business of the court.

RATIONALE: Editorial changes.

~~§ 17-134. Where judges to reside.~~

Each circuit judge, during his continuance in office, shall reside in the circuit of which he is judge; whenever any such judge resides within the area in which his court has criminal jurisdiction he shall be deemed to be residing within his circuit and in one of the counties or cities constituting the same.

RATIONALE: Repeal. This residency requirement is set out in former § 17-5 (now § 17.1-103).

Chapter 5.

Corporation of ~~Hustings~~ Courts.

~~§§ 17-135 through 17-144.1.~~

~~Repealed by Acts 1973, c. 544.~~

Chapter 6.

Courts of the City of Richmond.

Articles 1 through 5.

~~§§ 17-145 through 17-169.4.~~

~~Repealed by Acts 1973, c. 544.~~

Article 6.

The Law and Equity Court, Part Two.

~~§§ 17-170 through 17-182.~~

~~Repealed by Acts 1954, c. 14.~~

Chapter 7.

Courts of the City of Norfolk.

~~§§ 17-183 through 17-208.1.~~

~~Repealed by Acts 1973, c. 544.~~

Chapter 8.

Court of Law and Chancery of Roanoke.

~~§§ 17-209 through 17-221.~~

~~Repealed by Acts 1973, c. 544.~~

Chapter 8.1.

Courts of the City of Newport News.

 Articles 1, 2.

~~§§ 17-221.1 through 17-221.6.~~
~~Repealed by Acts 1973, c. 544.~~

 Article 3.
 Circuit Court.

~~§§ 17-221.7, 17-221.8.~~
~~Repealed by Acts 1973, c. 544.~~
~~§ 17-221.9.~~
~~Repealed by Acts 1962, c. 379.~~

 Article 4.
 Hustings Court.

~~§ 17-221.10.~~
~~Repealed by Acts 1973, c. 544.~~
~~§§ 17-221.11, 17-221.12.~~
~~Repealed by Acts 1962, c. 379.~~
~~§ 17-221.13.~~
~~Repealed by Acts 1973, c. 544.~~
~~§ 17-221.14.~~
~~Repealed by Acts 1962, c. 379.~~

 Articles 5, 6.

~~§§ 17-221.15 through 17-221.17.~~
~~Repealed by Acts 1973, c. 544.~~

 Chapter 8.2.
 Courts of the City of Hampton.

~~§§ 17-221.18 through 17-221.29.~~
~~Repealed by Acts 1973, c. 544.~~

 Article 2.
 Salaries and Expenses
~~Chapter 9~~ Chapter 7.
 Judicial Policy Making Bodies
 Article 1.
 Judicial Council.

~~§ 17-222 17.1-700.~~ (For effective date - See note) Composition of Council; committees.

The Judicial Council shall be composed of ~~thirteen~~ fourteen members consisting of the Chief Justice of the Supreme Court, one judge of the Court of Appeals, six circuit court judges, one general district court judge, one juvenile and domestic relations district court judge, two attorneys qualified to practice in the Supreme Court, and the Chairmen of the Committees for Courts of Justice of the Senate and the House of Delegates. The Council may appoint committees to aid it in the performance of its duties, and members of such committees need not be members of the Council.

RATIONALE: Clarifies that the Chief Justice is a member of Judicial Council.

~~§ 17-222 17.1-700.~~ (Delayed effective date - See notes) Composition of Council; committees.

The Judicial Council shall be composed of ~~thirteen~~ fourteen members consisting of the Chief Justice of the Supreme Court, one judge of the Court of Appeals, six circuit court judges, one general district court judge, one family court judge, two attorneys qualified to practice in the Supreme Court, and the Chairmen of the Committees for Courts of Justice of the Senate and the House of Delegates. The Council may appoint committees to aid it in the performance of its duties, and members of such committees need not be members of the Council.

RATIONALE: Clarifies that the Chief Justice is a member of Judicial Council.

§ ~~17-223~~ 17.1-701. Appointment and terms of members.

The members of the Council shall be appointed by the Chief Justice of the Supreme Court, to serve for four years, or during his pleasure; ~~provided, however, that no~~. No member ~~so~~ appointed by the Chief Justice shall be eligible to serve more than two consecutive terms.

RATIONALE: Rewritten for clarity.

§ ~~17-224~~ 17.1-702. Meetings of Council and committees.

The Chief Justice, or, in case of his inability to do so, one of the other ~~judges~~ justices of the Supreme Court, shall summon the Council to meet at Richmond during the month of October in each year, and at such other times and places as the Chief Justice, or such other ~~judge~~ justice, may designate. If any member, when so summoned, shall for any cause be unable to attend, he shall promptly notify the ~~judge~~ justice who issued the summons, of such fact, and such ~~judge~~ justice shall thereupon summon some other person possessing similar qualifications to attend and act in his stead.

Each member ~~and/or~~ or other person, when so summoned, shall attend and remain throughout the proceedings of the Council, unless excused by the presiding officer, and shall advise as to any matters in respect to which, in his opinion, the administration of justice in the courts of this Commonwealth may be improved.

The Chief Justice or, in case of his inability to do so, one of the other ~~judges~~ justices of the Supreme Court, may summon the chairman or members of any committee to meet at such time and place as the Chief Justice, or such other ~~judge~~ justice, may designate.

RATIONALE: Editorial changes only.

§ ~~17-225~~ 17.1-703. Presiding officer; study of procedure.

The Chief Justice of the Supreme Court, or the other ~~judge~~ justice summoning the Council, shall be its presiding officer.

The Council shall, during each of its meetings, make a continuous study of the organization and the rules and methods of procedure and practice of the judicial system of the Commonwealth, the work accomplished and the results produced by the system and its various parts; and shall make studies of the need, or lack of need, of additional judges or justices of the Supreme Court of Virginia, the Court of Appeals of Virginia, and the circuit courts.

On the request of the presiding officer, the Attorney General shall attend the Council and confer with the members thereof, more particularly on the Commonwealth's business in the courts, and for the purpose of devising methods for the prevention of undue delay in the trial of such cases.

RATIONALE: Editorial change only.

§ ~~17-225.1~~.

~~Expired.~~

§ ~~17-226~~ 17.1-704. Expenses; Secretary and assistants; printing.

Each member of the Council shall serve without compensation, and each member of the Council and of its committees summoned and attending its meetings shall be allowed his actual expenses of travel and also his necessary expenses for subsistence while attending the Council. As provided by § ~~17-111.2~~ 17.1-315 the Executive Secretary of the Supreme Court shall be the Secretary of the Judicial Council. The Council may engage such consultants or other assistants as it deems necessary for the performance of its duties.

~~All necessary printing shall be done by the Department of Purchases and Supply as may be ordered by the Chief Justice of the Supreme Court or the judge presiding at the Council.~~

RATIONALE: The provision concerning printing has been stricken because the Court has its own printing contract. Former § 17-116.010 (now § 17.1-413) provides that the Executive Secretary contracts for other printing services after consultation with the Department.

§ ~~17-227~~ 17.1-705. Report and recommendations.

A report of the proceedings of the Council shall be made to the General Assembly and to the Supreme Court, with such recommendations as may be agreed upon. However, this authority to make recommendations shall in no event be construed to establish rules for the judicial system of the Commonwealth.

RATIONALE: No change.

Judicial Conference of Virginia.

§ ~~17-228~~ 17.1-706. Establishment and membership.

There is hereby established the Judicial Conference of Virginia, which shall have as its active members the Chief Justice and justices of the Supreme Court of Virginia, the chief judge and judges of the Court of Appeals, all other judges of the circuit courts of the Commonwealth and all retired justices and judges of such courts. The honorary membership shall consist of the Attorney General of Virginia, the Chairmen of the Courts of Justice Committees of the Senate and House of Delegates, the president and secretary of the Virginia State Bar, the president and secretary of the Virginia State Bar Association, the president and secretary of the Virginia Trial Lawyers Association, the president and secretary of the Virginia Association of Defense Attorneys, the president and secretary of the Old Dominion Bar Association, the president and secretary of the Virginia Association of Commonwealth's Attorneys, the president and secretary of the Virginia Women Attorneys Association, the deans of the law schools of the College of William and Mary, University of Richmond, University of Virginia, Washington and Lee University, and George Mason University, and the ~~four~~ two attorneys appointed by the Chief Justice of the Supreme Court as members of the Judicial Council. The honorary members shall not have voting privileges.

RATIONALE: The number of attorneys is not being reduced by the amendment striking "four" and inserting "two." The use of the number four appears to be a typographical error because the Chief Justice only has the authority to appoint two attorneys under the provisions of § 17.1-700 (former § 17-222) for membership of the Judicial Council.

§ ~~17-229~~ 17.1-707. President; executive committee.

The Chief Justice of the Supreme Court shall be the president of the Judicial Conference. The Conference shall be served by an executive committee composed of eight judges. The Chief Justice, or a ~~Justice~~ justice of the Supreme Court designated by him, shall be chairman of the executive committee.

RATIONALE: Editorial change only.

§ ~~17-230~~ 17.1-708. Meetings.

The Conference shall meet at least once in each calendar year at the call of the president and at such other times as may be designated by him or by the executive committee for the purpose of discussing and considering means and methods of improving the administration of justice in this Commonwealth. If any active member shall for any cause be unable to attend, he shall promptly notify the president. Unless excused from attendance, it shall be the duty of each active member to attend and remain throughout the proceedings of the Conference.

RATIONALE: No change.

§ ~~17-231~~ 17.1-709. Expenses of members.

The active members and honorary members shall receive their ~~actual~~ reasonable expenses while in attendance at the meetings of the Conference, and of the executive committee.

RATIONALE: A change from actual expenses to reasonable expenses seems appropriate since the judicial branch abides by the executive branch's guidelines on reimbursement of travel expenses.

 Chapter ~~11~~ 8.

Virginia Criminal Sentencing Commission.

§ ~~17-232~~ 17.1- 800. Virginia Criminal Sentencing Commission created.

There is hereby created within the judicial branch as an agency of the Supreme Court of Virginia, the Virginia Criminal Sentencing Commission, hereinafter referred to in this chapter as the Commission.

§ ~~17-233~~ 17.1-801 . Purpose.

The General Assembly, to ensure the imposition of appropriate and just criminal penalties, and to make the most efficient use of correctional resources, especially for the effective incapacitation of violent criminal offenders, has determined that it is in the best interest of the Commonwealth to develop, implement, and revise discretionary sentencing guidelines. The purposes of the Commission established under this chapter are to assist the judiciary in the imposition of sentences by establishing a system of discretionary guidelines and to establish a discretionary sentencing guidelines system

which emphasizes accountability of the offender and of the criminal justice system to the citizens of the Commonwealth.

The Commission shall develop discretionary sentencing guidelines to achieve the goals of certainty, consistency, and adequacy of punishment with due regard to the seriousness of the offense, the dangerousness of the offender, deterrence of individuals from committing criminal offenses and the use of alternative sanctions, where appropriate.

§ ~~17-234~~ 17.1-802. Membership; compensation.

A. The Commission shall be composed of seventeen members as follows:

1. Six judges or justices, who may be judges of a circuit court who regularly hear criminal cases or judges or justices of the Supreme Court or the Court of Appeals, to be appointed by the Chief Justice of the Supreme Court of Virginia;

2. One person who is not an active member of the judiciary, to be appointed as Chairman by the Chief Justice of the Supreme Court of Virginia subject to confirmation by the General Assembly ~~provided that the person initially appointed chairman shall be authorized to act pending confirmation by the 1995 Regular Session of the General Assembly;~~

3. Three persons to be appointed by the Speaker of the House of Delegates;

4. Two persons to be appointed by the Senate Committee on Privileges and Elections;

5. Four persons to be appointed by the Governor, at least one of whom shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01; and

6. The Attorney General of Virginia.

B. Appointments to the Commission shall be for terms of three years. Members shall not be eligible to serve more than two consecutive full terms except for the Attorney General who shall serve by virtue of his office.

C. Members of the Commission shall receive compensation as provided in § ~~14.1-18~~ 30-19.12, and all members of the Commission shall be paid their necessary expenses incurred in the performance of their duties.

RATIONALE: No substantive change. Transition language has been deleted.

§ ~~17-235~~ 17.1-803. Powers and duties.

The Commission shall:

1. Develop, maintain and modify as may be deemed necessary, a proposed system of statewide discretionary sentencing guidelines for use in all felony cases which will take into account historical data, when available, concerning time actually served for various felony offenses committed prior to January 1, 1995, and sentences imposed for various felony offenses committed on or after January 1, 1995, and such other factors as may be deemed relevant to sentencing.

2. Prepare, periodically update, and distribute sentencing worksheets for the use of sentencing courts which, when used, will produce a recommended sentencing range for a felony offense in accordance with the discretionary sentencing guidelines established pursuant to subdivision 1.

3. Prepare, periodically update, and distribute a form for the use of sentencing courts which will assist such courts in recording the reason or reasons for any sentence imposed in a felony case which is greater or less than the sentence recommended by the discretionary sentencing guidelines.

4. Prepare guidelines for sentencing courts to use in determining appropriate candidates for alternative sanctions which may include, but not be limited to (i) fines and day fines, (ii) boot camp incarceration, (iii) local correctional facility incarceration, (iv) diversion center incarceration, (v) detention center incarceration, (vi) home incarceration/electronic monitoring, (vii) day or evening reporting, (viii) probation supervision, (ix) intensive probation supervision, and (x) performance of community service.

5. Develop an offender risk assessment instrument for use in all felony cases, based on a study of Virginia felons, that will be predictive of the relative risk that a felon will become a threat to public safety.

6. Apply the risk assessment instrument to offenders convicted of any felony that is not specified in (i) subdivision 1, 2 or 3 of subsection A of § ~~17-237~~ 17.1-805 or (ii) subsection C of § ~~17-237~~ 17.1-805 under the discretionary sentencing guidelines, and shall determine, on the basis of such assessment and with due regard for public safety needs, the feasibility of achieving the goal of placing twenty-five percent of such offenders in one of the alternative sanctions listed in subdivision

4. If the Commission so determines that achieving the twenty-five percent or a higher percentage goal is feasible, it shall incorporate such goal into the discretionary sentencing guidelines, to become effective on January 1, 1996. If the Commission so determines that achieving the goal is not feasible, the Commission shall report that determination to the General Assembly, the Governor and the Chief Justice of the Supreme Court of Virginia on or before December 1, 1995, and shall make such recommendations as it deems appropriate.

7. Monitor sentencing practices in felony cases throughout the Commonwealth, including the use of the discretionary sentencing guidelines, and maintain a database containing the information obtained.

8. Monitor felony sentence lengths, crime trends, correctional facility population trends and correctional resources and make recommendations regarding projected correctional facilities capacity requirements and related correctional resource needs.

9. Study felony statutes in the context of judge-sentencing and jury-sentencing patterns as they evolve after January 1, 1995, and make recommendations for the revision of general criminal offense statutes to provide more specific offense definitions and more narrowly prescribed ranges of punishment.

10. Report upon its work and recommendations annually on or before December 1 to the General Assembly, the Governor and the Chief Justice of the Supreme Court of Virginia.

11. Perform such other functions as may be otherwise required by law or as may be necessary to carry out the provisions of this chapter.

§ ~~17-236~~ 17.1-804. Meetings; staff support.

A. Regular meetings of the Commission shall be held on a quarterly basis and at such other times as the Chairman may determine. Nine members of the Commission shall constitute a quorum. The Commission may hold public hearings.

B. The Commission may appoint a director and fix his duties and compensation. The Director may with prior approval of the Commission employ and fix the duties and compensation of such adequate staff as may be requisite to carry out the duties of the Commission. Other professional personnel, consultants and secretarial and clerical employees may be employed or contracted upon such terms and conditions as set forth by the Commission. The salaries, per diem and other expenses necessary to the functions of the Commission shall be payable from funds appropriated to the Commission. Adequate office space shall be provided by the Executive Secretary of the Supreme Court.

C. All agencies of the Commonwealth, their staffs and employees shall provide the Commission with necessary information for the performance of its duties.

§ ~~17-237~~ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.

A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which shall become effective on January 1, 1995. The initial recommended sentencing range for each felony offense shall be determined first, by computing the actual time-served distribution for similarly situated offenders, in terms of their conviction offense and prior criminal history, released from incarceration during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended sentencing range shall be the median time served for the middle two quartiles and subject to the following additional enhancements:

1. The midpoint of the initial recommended sentencing range for first degree murder, second degree murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual battery, shall be further increased by (i) 125 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than forty years, or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of forty years or more, except that the recommended sentence for a defendant convicted of first degree murder who has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of forty years or more shall be imprisonment for life;

2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery, aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or

statutory burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any statutory burglary committed while armed with a deadly weapon shall be further increased by (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of less than forty years, or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of forty years or more;

3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving or distributing, or possessing with the intent to manufacture, sell, give or distribute a Schedule I or II controlled substance shall be increased by (i) 200 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than forty years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of forty years or more; and

4. The midpoint of the initial recommended sentencing range for felony offenses not specified in subdivision 1, 2 or 3 shall be increased by 100 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than forty years, and by 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of forty years or more.

B. For purposes of this chapter, previous convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. However, for purposes of subdivision A 4 of this section, only convictions or adjudications (i) occurring within sixteen years prior to the date of the offense upon which the current conviction or adjudication is based or (ii) resulting in an incarceration from which the offender was released within sixteen years prior to the date of the offense upon which the current conviction or adjudication is based, shall be deemed to be "previous convictions."

C. For purposes of this chapter, violent felony offenses shall include any violation of §§ 18.2-31, 18.2-32, 18.2-33, 18.2-35, 18.2-40 or § 18.2-41; any Class 5 felony violation of § 18.2-47; any felony violation of §§ 18.2-48, 18.2-48.1, or § 18.2-49; any violation of §§ 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-52, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2 or § 18.2-55, or any felony violation of § 18.2-57.2; any violation of § 18.2-58 or § 18.2-58.1; any felony violation of § 18.2-60.1 or § 18.2-60.3; any violation of §§ 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-67.3 or § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of §§ 18.2-89, 18.2-90, 18.2-91, 18.2-92 or § 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of §§ 18.2-153, 18.2-154 or § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any violation of subsection B of § 18.2-280; any violation of §§ 18.2-281, 18.2-286.1, 18.2-289 or § 18.2-290; any felony violation of subsection A of § 18.2-282; any violation of subsection A of § 18.2-300; any felony violation of §§ 18.2-308.1 and 18.2-308.2; any violation of § 18.2-308.2:1, or subsection M or N of § 18.2-308.2:2; any violation of § 18.2-308.3 or § 18.2-312; any violation of subdivision (2) or (3) of § 18.2-355; any violation of § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of §§ 18.2-368, 18.2-370 or § 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3; any second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or § 18.2-406; any violation of §§ 18.2-408, 18.2-413, 18.2-414 or § 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1 or § 18.2-477.1; any violation of §§ 18.2-477, 18.2-478, 18.2-480 or § 18.2-485; any violation of § 53.1-203; or any conspiracy or attempt to commit any offense specified in this subsection, and any substantially similar offense under the laws of any state, the District of Columbia, the United States or its territories.

§ ~~17-238~~ 17.1-806. Sentencing guidelines modifications; effective date.

After adoption of the initial guidelines, any modification to the discretionary sentencing guidelines adopted by the Commission shall be contained in the annual report required under § ~~17-235~~ 17.1-803

and shall, unless otherwise provided by law, become effective on the next following July 1.

RATIONALE: No substantive changes are necessary in the several preceding sections. Cross reference changes have been made where appropriate.

TABLE OF CONTENTS

Appendix I:
Outline of Title 17.1

Appendix II:
Comparative Tables

Appendix III:

A. Letter from William E. Landside, CPA, Comptroller, "Definition of Salary."

B. Letter from Arthur N. Bowen, III, Deputy State Treasurer, Department of the Treasury, "Definition and Use of Term 'State Depository,' and Other Matters Contained in § 2.1-18D."

TITLE 17.1
COURTS OF RECORD
CHAPTER 1
GENERAL PROVISIONS

- § 17.1-100. Reserved.
- § 17.1-101. Time within which a judge may qualify; failure vacates office.
- § 17.1-102. Justices and judges not permitted to practice law or seek or hold elective or other office
- § 17.1-103. Residence requirements of judges.
- § 17.1-104. In election by court, votes to be recorded.
- § 17.1-105. Designation of judges to hold courts and assist other judges.
- § 17.1-106. Temporary recall of retired judges.
- § 17.1-107. Designation of judge to assist regular judge holding case under advisement for unreasonable length of time.
- § 17.1-108. Designation of circuit court judges to assist family court judges.
- § 17.1-109. Judges pro tempore.
- § 17.1-110. Their appointment and powers.
- § 17.1-111. Compensation.
- § 17.1-112. Sheriff to attend court as its officer.
- § 17.1-113. Places of holding courts; certain orders and decrees entered elsewhere.
- § 17.1-114. When and how changed.
- § 17.1-115. How order or warrant making change posted.
- § 17.1-116. Change of place or time for holding session of Supreme Court.
- § 17.1-117. Certain acts of courts held at improper places confirmed.
- § 17.1-118. Display of flags in courtrooms.
- § 17.1-119. Courts may adjourn for a period not exceeding thirty days.
- § 17.1-120. Adjournment from day to day; effect of failure to sit on day to which adjourned.
- § 17.1-121. Effect of change of time or place of court or failure to sit generally.
- § 17.1-122. Matters not determined to stand continued.
- § 17.1-123. How orders are recorded and signed.
- § 17.1-124. Order books.
- § 17.1-125. Trust fund order book.
- § 17.1-126. Adjournments not entered; orders closing terms.
- § 17.1-127. Caption for record on opening of term, etc.
- § 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.
- § 17.1-129. Filing date and time to be noted on papers.
- § 17.1-130. Execution of judgments and decrees of courts no longer existing.
- § 17.1-131. Jurisdiction to issue writs of mandamus in matters pertaining to action of service district commission.

CHAPTER 2
CLERKS, CLERKS' OFFICES AND RECORDS

Article 1
Clerk of Supreme Court

- § 17.1-200. Clerk of Supreme Court; appointment; removal.
- § 17.1-201. Appointment of deputies; their duties; how removed, etc.
- § 17.1-202. Clerk, etc., of Supreme Court not to act as counsel.
- § 17.1-203. Where clerk's offices to be kept.
- § 17.1-204. Examination of office and accounts of clerk.
- § 17.1-205. Reserved.

Article 2
Other Clerks and Clerks' Offices

- § 17.1-206. Where offices to be located.
- § 17.1-207. Days of operation of clerks' offices.
- § 17.1-208. Records, etc., open to inspection; copies.
- § 17.1-209. Preservation of papers in clerk's office.
- § 17.1-210. Removal of records or papers prohibited; exceptions.
- § 17.1-211. Maintenance and disposition of certain receipt books, canceled checks and statements.
- § 17.1-212. Copying of records becoming illegible.
- § 17.1-213. Disposition of papers in ended cases.
- § 17.1-214. Clerk to deliver or send process to sheriff.
- § 17.1-215. Process book.
- § 17.1-216. Handling fee for service of process.
- § 17.1-217. Power of clerk to administer oath.
- § 17.1-218. Certified lists of county, district, town and city officers, and constitutional officers; vacancies and appointments.
- § 17.1-219. Clerk to prepare bonds.
- § 17.1-220. Duplicate certificate of allowance prohibited, unless ordered by court.
- § 17.1-221. Reports by clerks of the business of courts of record.
- § 17.1-222. Failure to make report.
- § 17.1-222.1. Collection of fees, etc., by court clerks in lieu of money.

Article 3
Records, Recordation and Indexing Generally.

- § 17.1-223. Duty of clerk to records writings, etc., and make index.
- § 17.1-224. Copy of illegible instrument used for making permanent photostat record.
- § 17.1-225. Remote access to nonconfidential court records.

- § 17.1-226. Remote access to certain agencies from clerk of court.
- § 17.1-227. Documents to be recorded in deed books.
- § 17.1-228. Recording releases of deeds of trust, partial releases of deeds of trust, court ordered releases, or other liens or assignments in cities and counties using microfilm.
- § 17.1-229. Additional documents to be recorded in deed book.
- § 17.1-230. Documents to be recorded in bond book.
- § 17.1-231. Documents to be recorded in will book.
- § 17.1-232. What to be recorded in judgment docket.
- § 17.1-233. What to be recorded in marriage register.
- § 17.1-234. Documents to be recorded in "writings partially proved."
- § 17.1-235. Recordation of federal farm loan mortgages.
- § 17.1-236. Recordation of plats and maps.
- § 17.1-237. Validation of recordations in certain plat books.
- § 17.1-238. State highway plat book.
- § 17.1-239. Character of books used for recording; standards for microfilm, etc.
- § 17.1-240. Recording by microphotographic or electronic process.
- § 17.1-241. Clerks to procure books for record.
- § 17.1-242. Custody of books, records, etc.
- § 17.1-243. Courts to have land books bound.
- § 17.1-244. Books, etc., in clerks' offices rebound, transcribed, microfilmed or digitally reproduced; credit given to transcripts, etc.
- § 17.1-245. Books may be taken from clerk's office to be rebound, etc.
- § 17.1-246. How costs thereof certified and paid.
- § 17.1-247. When and how clerk to verify his record.
- § 17.1-248. Clerk to make index to each of his books.
- § 17.1-249. General indexes for clerks' offices; daily index.
- § 17.1-250. Correction of indexes.
- § 17.1-251. Indexing of certain subdivision plats or maps.
- § 17.1-252. Indexing by tax map reference number.
- § 17.1-253. Committee to inquire into necessity of general index; report; plan adopted; locality to cover cost.
- § 17.1-254. Validation of judgment records in office of clerk of Circuit Court of Norfolk.

Article 4 Electronic Filing

- § 17.1-255. Definition.
- § 17.1-256. Electronic filing of documents authorized.
- § 17.1-257. Completion of electronic filing; transmission and distribution of data.
- § 17.1-258. Signature; when effective as originals.

Article 5
Master and Incorporating Deeds of Trust

- § 17.1-259. Recordation of master deed of trust; form and requisites.
§ 17.1-260. Recordation, effect and requisites of incorporating deed.

Article 6
Names, Discharges, etc., of War Service Men

- § 17.1-261. Recordation of names of men who served during World War I.
§ 17.1-262. Recordation of discharges of those who served in World War I.
§ 17.1-263. World War I Memorial Record.
§ 17.1-264. Recording information on discharges of World War II servicemen.
§ 17.1-265. Recordation of evidence of discharge generally.

Article 7
Fees

- § 17.1-266. Services rendered in Commonwealth's cases.
§ 17.1-267. Services for which clerks may not charge.
§ 17.1-268. Fee for effort to serve when person cannot be found.
§ 17.1-269. To whom fees charged.
§ 17.1-270. Officer to state fees, etc., on affidavit, deposition or report.
§ 17.1-271. Deposit of money in bank.
§ 17.1-272. Process and service fees generally.
§ 17.1-273. Establishment and disposition of fees collected by certain high constable.
§ 17.1-274. Commission on forthcoming bond.
§ 17.1-275. Fees collected by clerks of circuit courts; generally.
§ 17.1-276. Fee allowed for providing remote access to certain records.
§ 17.1-277. Fees in traffic infraction cases.
§ 17.1-278. Additional fees in certain courts; use by Virginia State Bar.
§ 17.1-279. Additional fee to be assessed by circuit court clerks for information technology.
§ 17.1-280. What costs chargeable against prosecutor.
§ 17.1-281. Assessment for courthouse construction, renovation or maintenance.
§ 17.1-282. Fees for services of family court judges and clerks in selected civil cases.
§ 17.1-283. Statements required of clerks of courts of record; exceptions.
§ 17.1-284. How excess payable into state or local treasury determined.
§ 17.1-285. Payment of excess.
§ 17.1-286. Disposition of state funds locally collected.
§ 17.1-287. Salaries of clerks of circuit courts.

- § 17.1-288. Compensation and expenses of clerks of circuit courts in Cities of Richmond and Newport News.
- § 17.1-289. Commission on certain local collections not otherwise provided for.
- § 17.1-290. Contracts by cities.
- § 17.1-291. Penalty for officers.

CHAPTER 3
SUPREME COURT

Article 1

Composition; Jurisdiction, etc.

- § 17.1-300. Composition of Court; quorum; Chief Justice.
- § 17.1-301. Presiding justice when Chief Justice absent.
- § 17.1-302. Senior justice.
- § 17.1-303. Election of successor justice before date of vacancy.
- § 17.1-304. Terms and sessions.
- § 17.1-305. Special sessions.
- § 17.1-306. What may be tried at special session; effect of decisions.
- § 17.1-307. Information and recommendations as to other courts.
- § 17.1-308. Court may sit and render final judgment en banc or in divisions; when decision becomes judgment of Court; majority must concur in declaring law unconstitutional; rehearings.
- § 17.1-309. Jurisdiction of writs of mandamus and prohibition.
- § 17.1-310. Habeas corpus, appeals, writs of error and supersedeas.
- § 17.1-311. Where prohibition and mandamus issued and tried.
- § 17.1-312. Where criminal jurisdiction exercised.
- § 17.1-313. Review of death sentence.
- § 17.1-314. Executive Secretary.
- § 17.1-315. Duties of Executive Secretary.
- § 17.1-316. Printing and binding reports of Supreme Court.
- § 17.1-317. Printing and distribution of advance sheets of such reports.
- § 17.1-318. Printing and distribution of Rules of the Supreme Court.
- § 17.1-319. Custody and distribution of reports of Supreme Court; Court of Appeals.
- § 17.1-320. Furnishing reports to law libraries destroyed by fire.
- § 17.1-321. Reporter of Court; his appointment and salary.
- § 17.1-322. Duties.
- § 17.1-323. Clerk to deliver opinions to Reporter.

Article 2

Compensation and Expenses; Fees

- § 17.1-324. Justices of Supreme Court.
- § 17.1-325. Clerk and deputy clerks of Supreme Court.
- § 17.1-326. Reporter of Supreme Court.

- § 17.1-327. Payment for services of retired judges; members of the State Corporation Commission and Virginia Workers' Compensation Commission.
- § 17.1-328. Fees charged by Clerk of Supreme Court.
- § 17.1-329. Disposition of fees of Clerk of Supreme Court.

CHAPTER 4 THE COURT OF APPEALS

- § 17.1-400. Creation and organization; election and terms of judges; oath; vacancies; qualifications; incompatible activities prohibited; chief judge.
- § 17.1-401. Senior judge.
- § 17.1-402. Session; panels; quorum; presiding judges; hearings en banc.
- § 17.1-403. Rules of practice, procedure, and internal processes; promulgation by Supreme Court; amendments; summary disposition of appeals without merit.
- § 17.1-404. Original jurisdiction in matters of contempt and injunctions, writs of mandamus, prohibition and habeas corpus.
- § 17.1-405. Appellate jurisdiction - Administrative agency, Virginia Workers' Compensation Commission, and domestic relations appeals.
- § 17.1-406. Petitions for appeal; cases over which Court of Appeals does not have jurisdiction
- § 17.1-407. Procedures on appeal.
- § 17.1-408. Time for filing; notice; petition.
- § 17.1-409. Certification to the Supreme Court.
- § 17.1-410. Disposition of appeals; finality of decisions.
- § 17.1-411. Review by the Supreme Court.
- § 17.1-412. Affirmance, reversal, or modification of judgment; petition for appeal to Supreme Court upon award of new trial.
- § 17.1-413. Opinions; reporting, printing and electronic publication.
- § 17.1-414. Facilities and supplies.
- § 17.1-415. Compensation for judges; travel expenses.
- § 17.1-416. Clerk; seal; deputies and other employees; clerk's fees.
- § 17.1-417. Research assistants and secretaries.
- § 17.1-418. Fees charged by Clerk of the Court of Appeals.

CHAPTER 5 CIRCUIT COURTS

Article 1 Establishment; Jurisdiction; etc.

- § 17.1-500. Establishment of circuit courts.
- § 17.1-501. Judges of circuit courts; selection, powers and duties of chief judges; exercise of appointive powers.

- § 17.1-502. Administrator of circuit court system.
- § 17.1-503. Rules of practice and procedure; rules not to preclude judges from hearing certain cases.
- § 17.1-504. Reserved.
- § 17.1-505. Circuit court of county to constitute circuit court of certain cities.
- § 17.1-506. Judicial circuits.
- § 17.1-507. Number of judges; residence requirement; compensation; powers; etc.
- § 17.1-508. Judges in new or changed circuits; ratifying, validating and confirming certain actions.
- § 17.1-509. Vacancies in office of judge.
- § 17.1-510. Election of judge of new circuit; how court held meanwhile.
- § 17.1-511. Investigation and certification of necessity before vacancies filled.
- § 17.1-512. Election of successor judge before date of vacancy.
- § 17.1-513. Jurisdiction of circuit courts.
- § 17.1-514. When plaintiff entitled to less than \$100; judgment for defendant.
- § 17.1-515. Jurisdiction formerly in county courts.
- § 17.1-516. Jurisdiction of courts over certain waters.
- § 17.1-517. Number of terms; how fixed.
- § 17.1-518. Special terms; when, how and by whom appointed.
- § 17.1-519. Adjournment thereof to a future day.
- § 17.1-520. What tried at a special term.
- § 17.1-521. Who to hold special term; powers.
- § 17.1-522. Adjournment of special term.
- § 17.1-523. Salaries of judges of circuit courts.
- § 17.1-524. Traveling expenses of circuit judges.

CHAPTER 6 COSTS GENERALLY

- § 17.1-600. Laws of costs not penal; discretion of courts of equity.
- § 17.1-601. General rule as to recovery of costs on final judgment.
- § 17.1-602. When successful plaintiff not to recover costs.
- § 17.1-603. Costs when suit is in name of one person for another.
- § 17.1-604. Costs in appellate courts.
- § 17.1-605. Same; printing or otherwise reproducing brief and appendix.
- § 17.1-606. Persons allowed services without fees or costs.
- § 17.1-607. Security for costs upon suit by nonresident.
- § 17.1-608. How obligor in such bond may obtain indemnity.
- § 17.1-609. Costs on certain motions and interlocutory orders.
- § 17.1-610. Payment of costs when new trial granted.
- § 17.1-611. Allowances to witnesses for Commonwealth.
- § 17.1-612. Allowances to other witnesses.
- § 17.1-613. By whom and upon what certificate allowances to witnesses paid.
- § 17.1-614. List of entries made on behalf of witnesses.

- § 17.1-615. Time within which witnesses may be paid out of state treasury.
- § 17.1-616. Restriction of costs for witnesses generally; when entry for witness not allowed.
- § 17.1-617. Number of witnesses paid fees in criminal cases.
- § 17.1-618. Allowances for jurors; expenses of keeping jury together; fees of jury commissioners and commissioner in chancery for drawing of juries.
- § 17.1-619. How jurors paid.
- § 17.1-620. When juror not entitled to compensation.
- § 17.1-621. Clerk to make entry on minutes stating amount due and by whom payable.
- § 17.1-622. Clerk to transmit orders making allowances to Supreme Court, treasurer and jurors.
- § 17.1-623. Payment of allowances.
- § 17.1-624. Who to tax costs; what included for attorney's fee.
- § 17.1-625. Fee of one attorney only to be taxed.
- § 17.1-626. Other items to be taxed in costs.
- § 17.1-627. Premium on indemnifying bond taxed as costs.
- § 17.1-628. Judgment or decree for costs on behalf of Commonwealth; costs to be paid into state treasury.
- § 17.1-629. No judgment for costs against Commonwealth; exception.

CHAPTER 7 JUDICIAL POLICY-MAKING BODIES

Article 1 Judicial Council

- § 17.1-700. Composition of Council; committees.
- § 17.1-701. Appointment and terms of members.
- § 17.1-702. Meetings of Council and committees.
- § 17.1-703. Presiding officer; study of procedure.
- § 17.1-704. Expenses; Secretary and assistants; printing.
- § 17.1-705. Report and recommendations.

Article 2 Judicial Conference of Virginia

- § 17.1-706. Establishment and membership.
- § 17.1-707. President; executive committee.
- § 17.1-708. Meetings.
- § 17.1-709. Expenses of members.

CHAPTER 8 VIRGINIA CRIMINAL SENTENCING COMMISSION

- § 17.1-800. Virginia Criminal Sentencing Commission created.

- § 17.1-801. Purpose.
- § 17.1-802. Membership; compensation.
- § 17.1-803. Powers and duties.
- § 17.1-804. Meetings; staff support.
- § 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.
- § 17.1-806. Sentencing guidelines modifications; effective date.

COMPARABLE SECTIONS OF TITLE 14.1

NEW SECTION	OLD SECTION
§ 2.1-20.5	§ 14.1-1
§ 2.1-20.6	§ 14.1-2
§ 2.1-20.7	§§ 14.1-3, 14.1-4
§ 2.1-20.8	§ 14.1-5
§ 2.1-20.9	§ 14.1-5.1
§ 2.1-20.10	§§ 14.1-5.2, 14.1-6
§ 2.1-20.11	§§ 14.1-5.3, 14.1-10
§ 2.1-20.12	§ 14.1-9
§ 2.1-38	§ 14.1-12
§ 2.1-38.3	§ 14.1-13
§ 2.1-68	§ 14.1-14
§ 2.1-71.2	§ 14.1-103
§ 2.1-180	§ 14.1-15
§ 8.01-609.1	§ 14.1-133
§ 8.01-618.1	§ 14.1-133.1
§ 9-178.1	§ 14.1-133.3
§ 9-178.2	§ 14.1-133.4
§ 9-183.13	§ 14.1-84.1
§ 9-183.14	§ 14.1-84.2
§ 9-183.15	§ 14.1-84.3
§ 9-183.16	§ 14.1-84.4
§ 9-183.17	§ 14.1-84.5
§ 9-183.18	§ 14.1-84.6
§ 9-183.19	§ 14.1-84.6:1
§ 9-183.20	§ 14.1-84.6:2
§ 9-183.21	§ 14.1-84.7
§ 12.1-12	§ 14.1-13
§ 15.2-1414.1	§ 14.1-45
§ 15.2-1414.2	§ 14.1-46.01
§ 15.2-1414.3	§ 14.1-46.01:1
§ 15.2-1414.4	§ 14.1-47
§ 15.2-1414.5	§ 14.1-47.1
§ 15.2-1414.6	§ 14.1-47.2

COMPARABLE SECTIONS OF TITLE 14.1

NEW SECTION	OLD SECTION
§ 15.2-1414.7	§ 14.1-47.3
§ 15.2-1508.1	§ 14.1-7
§ 15.2-1508.2	§ 14.1-8
§ 15.2-1508.3	§ 14.1-11.1
§ 15.2-1508.4	§ 14.1-11.2
§ 15.2-1537.1	§ 14.1-161
§ 15.2-1605.1	§ 14.1-11.4
§ 15.2-1608.1	§ 14.1-55
§ 15.2-1608.2	§ 14.1-56
§ 15.2-1609.1	§§ 14.1-70
§ 15.2-1609.2	§§ 14.1-68, 14.1-73, 14.1-73.1:1, 14.1-73.1:2, 14.1-73.1:3, 14.1-74
§ 15.2-1609.3	§§ 14.1-69, 14.1-89, 14.1-94, 14.1-95
§ 15.2-1609.4	§ 14.1-75
§ 15.2-1609.5	§ 14.1-76
§ 15.2-1609.6	§ 14.1-77
§ 15.2-1609.7	§ 14.1-79
§ 15.2-1609.8	§ 14.1-82
§ 15.2-1609.9	§ 14.1-78
§ 15.2-1612.1	§ 14.1-73.2
§ 15.2-1614.1	§ 14.1-83
§ 15.2-1615.1	§ 14.1-80
§ 15.2-1627.1	§ 14.1-53
§ 15.2-1627.2	§ 14.1-54
§ 15.2-1627.3	§§ 14.1-88, 14.1-121
§ 15.2-1635.1 not set out	§ 14.1-11.5
§ 15.2-1636.1	§ 14.1-57
§ 15.2-1636.2	§ 14.1-58
§ 15.2-1636.3	§ 14.1-59
§ 15.2-1636.4	§ 14.1-60
§ 15.2-1636.5	§ 14.1-48
§ 15.2-1636.6	§ 14.1-49

COMPARABLE SECTIONS OF TITLE 14.1

NEW SECTION	OLD SECTION
§ 15.2-1636.6:1	§ 14.1-158
§ 15.2-1636.7	§ 14.1-50
§ 15.2-1636.8	§§ 14.1-61, 14.1-157
§ 15.2-1636.9	§ 14.1-52
§ 15.2-1636.10	§ 14.1-52.01
§ 15.2-1636.11	§ 14.1-61
§ 15.2-1636.12	§ 14.1-62
§ 15.2-1636.13	§ 14.1-63
§ 15.2-1636.14	§ 14.1-64
§ 15.2-1636.15	§ 14.1-65
§ 15.2-1636.16	§ 14.1-66
§ 15.2-1636.17	§ 14.1-67
§ 15.2-1636.18	§ 14.1-141
§ 15.2-1636.19	§ 14.1-142
§ 16.1-69.48:1	§ 14.1-123
§ 16.1-69.48:2	§ 14.1-125
§ 16.1-69.48:3	§ 14.1-134.1
§ 17.1-222.1	§ 14.1-3.1
§ 17.1-266	§ 14.1-87
§ 17.1-267	§ 14.1-90
§ 17.1-268	§ 14.1-96
§ 17.1-269	§ 14.1-97
§ 17.1-270	§ 14.1-98
§ 17.1-271	§ 14.1-101
§ 17.1-272	§§ 14.1-93, 14.1-95.1, 14.1-105
§ 17.1-273	Not set out
§ 17.1-274	§§ 14.1-108, 14.1-110
§ 17.1-275	§§ 14.1-111.1, 14.1-112, 14.1-112
§ 17.1-276	§ 14.1-118.1
§ 17.1-277	§ 14.1-122.1
§ 17.1-278	§ 14.1-125.1
§ 17.1-279	§ 14.1-125.2
§ 17.1-280	§ 14.1-131
§ 17.1-281	§ 14.1-133.2

COMPARABLE SECTIONS OF TITLE 14.1

NEW SECTION	OLD SECTION
§ 17.1-282	§ 14.1-135.1
§ 17.1-283	§§ 14.1-136, 14.1-138, 14.1-139
§ 17.1-284	§ 14.1-140
§ 17.1-285	§ 14.1-140.1
§ 17.1-286	§ 14.1-161
§ 17.1-287	§ 14.1-143.2
§ 17.1-288	§ 14.1-144.1
§ 17.1-289	§ 14.1-155.2
§ 17.1-290	§ 14.1-162
§ 17.1-291	§ 14.1-163
§ 17.1-324	§ 14.1-29
§ 17.1-325	§ 14.1-30
§ 17.1-326	§ 14.1-32
§ 17.1-327	§ 14.1-39.1
§ 17.1-328	§ 14.1-120
§ 17.1-329	§ 14.1-31
§ 17.1-418	§ 14.1-120.1
§ 17.1-523	§ 14.1-33
§ 17.1-524	§ 14.1-37
§ 17.1-600	§ 14.1-177
§ 17.1-601	§ 14.1-178
§ 17.1-602	§ 14.1-179
§ 17.1-603	§ 14.1-180
§ 17.1-604	§ 14.1-181
§ 17.1-605	§ 14.1-182
§ 17.1-606	§ 14.1-183
§ 17.1-607	§ 14.1-185
§ 17.1-608	§ 14.1-186
§ 17.1-609	§ 14.1-187
§ 17.1-610	§ 14.1-188
§ 17.1-611	§ 14.1-189
§ 17.1-612	§ 14.1-190
§ 17.1-613	§ 14.1-191
§ 17.1-614	§ 14.1-192

COMPARABLE SECTIONS OF TITLE 14.1

NEW SECTION	OLD SECTION
§ 17.1-615	§ 14.1-193
§ 17.1-616	§ 14.1-194
§ 17.1-617	§ 14.1-195
§ 17.1-618	§ 14.1-195.1
§ 17.1-619	§ 14.1-195.2
§ 17.1-620	§ 14.1-195.3
§ 17.1-621	§ 14.1-195.4
§ 17.1-622	§ 14.1-195.5
§ 17.1-623	§ 14.1-195.6
§ 17.1-624	§ 14.1-196
§ 17.1-625	§ 14.1-197
§ 17.1-626	§ 14.1-198
§ 17.1-627	§ 14.1-199
§ 17.1-628	§ 14.1-200
§ 17.1-629	§ 14.1-201
§ 19.2-46.1	§ 14.1-44.2
§ 19.2-46.2	§ 14.1-44.2:1
§ 19.2-47.1	§ 14.1-44.4
§ 30-14.01	§ 14.1-104
§ 30-19.11	§ 14.1-17.1
§ 30-19.12	§ 14.1-18
§ 30-19.13	§ 14.1-18.1
§ 30-19.14	§ 14.1-18.2
§ 30-19.15	§ 14.1-19
§ 30-19.16	§ 14.1-19.1
§ 30-19.17	§ 14.1-20
§ 30-19.18	§ 14.1-21
§ 30-19.19	§ 14.1-22
§ 30-19.20	§ 14.1-23
§ 37.1-39	§ 14.1-16
§ 37.1-42.3	§ 14.1-16

REPEALED SECTIONS

REPEALED SECTIONS

14.1-9.1 (1989)
14.1-11 (1970)
14.1-11.3 (1970)
14.1-17 (1971)
14.1-24 - 14.1-28 (1966)
14.1-34 (1979)
14.1-35
14.1-36
14.1-38 (1976)
14.1-39
14.1-40 (1973)
14.1-41 (1980)
14.1-42 (1980)
14.1-43 (1973)
14.1-44 (1973)
14.1-44.1
14.1-44.3
14.1-44.5
14.1-46 (1979)
14.1-46.1
14.1-52.1 (1982)
14.1-58.1 (1970)
14.1-58.2 (1983)
14.1-62.1 (1970)
14.1-71 (1983)
14.1-72 (1983)
14.1-73.1 (1980)
14.1-81 (1983)
14.1-84 (1983)
14.1-85 (1979)
14.1-86
14.1-91 (1983)
14.1-92

REPEALED SECTIONS

14.1-99
14.1-100
14.1-102
14.1-106
14.1-107
14.1-109 (1995)
14.1-111 (1995)
14.1-112.1
14.1-112.2 THRU 14.1-118 (1994)
14.1-119
14.1-122
14.1-124
14.1-126
14.1-127 (1968)
14.1-128 (1975)
14.1-128.1 (1982)
14.1-129 (1973)
14.1-130
14.1-132 (1968)
14.1-134 (1980)
14.1-135 (1994)
14.1-137
14.1-143 (1981)
14.1-143.1 (1982)
14.1-144 (1981)
14.1-145 (1981)
14.1-146
14.1-147
14.1-150 (1981)
14.1-152 - 14.1-155.1 (1981)
14.1-155.3 (1981)
14.1-155.4 (1981)
14.1-156
14.1-156.1 (1973)
14.1-159
14.1-160

REPEALED SECTIONS

14.1-164 (1970)
14.1-164.1
14.1-165
14.1-166 (1982)
14.1-167 (1982)
14.1-168
14.1-169
14.1-170
14.1-171
14.1-172
14.1-173
14.1-174
14.1-175
14.1-176
14.1-184 (1975)
14.1-184.1 (1975)
14.1-200.1 (1975)
14.1-200.2 (1982)

RESERVED

§ 14.1-151

COMPARABLE SECTIONS OF TITLE 14.1 AND VARIOUS CODE SECTIONS

OLD SECTION	NEW SECTION
§ 14.1-1	§ 2.1-20.5
§ 14.1-2	§ 2.1-20.6
§ 14.1-3	§ 2.1-20.7
§ 14.1-3.1	§ 17.1-222.1
§ 14.1-4	§ 2.1-20.7
§ 14.1-5	§ 2.1-20.8
§ 14.1-5.1	§ 2.1-20.9
§ 14.1-5.2	§ 2.1-20.10
§ 14.1-5.3	§ 2.1-20.11
§ 14.1-6	§ 2.1-20.10
§ 14.1-7	§ 15.2-1508.1
§ 14.1-8	§ 15.2-1508.2
§ 14.1-9	§ 2.1-20.12
§ 14.1-9.1	Repealed 1989
§ 14.1-10	§ 2.1-20.11
§ 14.1-11	Repealed 1970
§ 14.1-11.1	§ 15.2-1508.3
§ 14.1-11.2	§ 15.2-1508.4
§ 14.1-11.3	Repealed 1970
§ 14.1-11.4	§ 15.2-1605.1
§ 14.1-11.5	Not set out § 15.2-1635.1
§ 14.1-12	§ 2.1-38
§ 14.1-13	§ 2.1-38.3, § 12.1-12
§ 14.1-14	§ 2.1-68
§ 14.1-15	§ 2.1-180
§ 14.1-16	§§ 37.1-39 and 37.1-42.3
§ 14.1-17	Repealed 1971
§ 14.1-17.1	§ 30-19.11
§ 14.1-18	§ 30-19.12
§ 14.1-18.1	§ 30-19.13
§ 14.1-18.2	§ 30-19.14
§ 14.1-19	§ 30-19.15
§ 14.1-19.1	§ 30-19.16
§ 14.1-20	§ 30-19.17

COMPARABLE SECTIONS OF TITLE 14.1 AND VARIOUS CODE SECTIONS

OLD SECTION	NEW SECTION
§ 14.1-21	§ 30-19.18
§ 14.1-22	§ 30-19.19
§ 14.1-23	§ 30-19.20
§§ 14.1-24 - 14.1-28	Repealed 1966
§ 14.1-29	§ 17.1-324
§ 14.1-30	§ 17.1-325
§ 14.1-31	§ 17.1-329
§ 14.1-32	§ 17.1-326
§ 14.1-33	§ 17.1-523
§ 14.1-34	Repealed 1979
§ 14.1-35	Repeal
§ 14.1-36	Repeal
§ 14.1-37	§ 17.1-524
§ 14.1-38	Repealed 1976
§ 14.1-39	Repeal
§ 14.1-39.1	§ 17.1-327
§ 14.1-40	Repealed 1973
§ 14.1-41	Repealed 1980
§ 14.1-42	Repealed 1980
§ 14.1-43	Repealed 1973
§ 14.1-44	Repealed 1973
§ 14.1-44.1	Repeal
§ 14.1-44.2	§ 19.2-46.1
§ 14.1-44.2:1	§ 19.2-46.2
§ 14.1-44.3	Repeal
§ 14.1-44.4	§ 19.2-47.1
§ 14.1-44.5	Repeal
§ 14.1-45	§ 15.2-1414.1
§ 14.1-46	Repealed 1979
§ 14.1-46.01	§ 15.2-1414.2
§ 14.1-46.01:1	§ 15.2-1414.3
§ 14.1-46.1	Repeal
§ 14.1-47	§ 15.2-1414.4
§ 14.1-47.1	§ 15.2-1414.5

COMPARABLE SECTIONS OF TITLE 14.1 AND VARIOUS CODE SECTIONS

OLD SECTION	NEW SECTION
§ 14.1-145	Repealed 1981
§ 14.1-146	Repeal
§ 14.1-147	Repeal
§ 14.1-148 thru § 14.1-150	Repealed 1981
§ 14.1-151	Reserved
§ 14.1-152 thru § 14.1-155.1	Repealed 1981
§ 14.1-155.2	§ 17.1-289
§ 14.1-155.3	Repealed 1981
§ 14.1-155.4	Repealed 1981
§ 14.1-156	Repeal
§ 14.1-156.1	Repealed 1973
§ 14.1-157	Repeal
§ 14.1-158	§ 15.2-1636.6:1
§ 14.1-159	Repeal
§ 14.1-160	Repeal
§ 14.1-161	§ 17.1-286, § 15.2-1537.1
§ 14.1-162	§ 17.1-290
§ 14.1-163	§ 17.1-291
§ 14.1-164	Repealed 1970
§ 14.1-164.1	Repeal
§ 14.1-165	Repeal
§ 14.1-166	Repealed 1982
§ 14.1-167	Repealed 1982
§ 14.1-168	Repeal
§ 14.1-169	Repeal
§ 14.1-170	Repeal
§ 14.1-171	Repeal
§ 14.1-172	Repeal
§ 14.1-173	Repeal
§ 14.1-174	Repeal
§ 14.1-175	Repeal
§ 14.1-176	Repeal

COMPARABLE SECTIONS OF TITLE 14.1 AND VARIOUS CODE SECTIONS

OLD SECTION	NEW SECTION
§ 14.1-73.1	Repealed 1980
§ 14.1-73.1:1	§ 15.2-1609.2
§ 14.1-73.1:2	§ 15.2-1609.2
§ 14.1-73.1:3	§ 15.2-1609.2
§ 14.1-73.2	§ 15.2-1612.1
§ 14.1-74	§ 15.2-1609.2
§ 14.1-75	§ 15.2-1609.4
§ 14.1-76	§ 15.2-1609.5
§ 14.1-77	§ 15.2-1609.6
§ 14.1-78	§ 15.2-1609.9
§ 14.1-79	§ 15.2-1609.7
§ 14.1-80	§ 15.2-1615.1
§ 14.1-81	Repealed 1983
§ 14.1-82	§ 15.2-1609.8
§ 14.1-83	§ 15.2-1614.1
§ 14.1-84	Repealed 1983
§ 14.1-84.1	§ 9-183.13
§ 14.1-84.2	§ 9-183.14
§ 14.1-84.3	§ 9-183.15
§ 14.1-84.4	§ 9-183.16
§ 14.1-84.5	§ 9-183.17
§ 14.1-84.6	§ 9-183.18
§ 14.1-84.6:1	§ 9-183.19
§ 14.1-84.6:2	§ 9-183.20
§ 14.1-84.7	§ 9-183.21
§ 14.1-85	Repealed 1979
§ 14.1-86	Repeal
§ 14.1-87	§ 17.1-266
§ 14.1-88	§ 15.2-1627.3
§ 14.1-89	§ 15.2-1609.3
§ 14.1-90	§ 17.1-267
§ 14.1-91	Repealed 1983
§ 14.1-92	Repeal
§ 14.1-93	§ 17.1-272

COMPARABLE SECTIONS OF TITLE 14.1 AND VARIOUS CODE SECTIONS

OLD SECTION	NEW SECTION
§ 14.1-47.2	§ 15.2-1414.6
§ 14.1-47.3	§ 15.2-1414.7
§ 14.1-48	§ 15.2-1636.5
§ 14.1-49	§ 15.2-1636.6
§ 14.1-50	§ 15.2-1636.7
§ 14.1-51	§ 15.2-1636.8
§ 14.1-51	§ 15.2-1636.8
§ 14.1-52	§ 15.2-1636.9
§ 14.1-52.01	§ 15.2-1636.10
§ 14.1-52.1	Repealed 1982
§ 14.1-53	§ 15.2-1627.1
§ 14.1-54	§ 15.2-1627.2
§ 14.1-55	§ 15.2-1608.1
§ 14.1-56	§ 15.2-1608.2
§ 14.1-57	§ 15.2-1636.1
§ 14.1-58	§ 15.2-1636.2
§ 14.1-58.1	Repealed 1970
§ 14.1-58.2	Repealed 1983
§ 14.1-59	§ 15.2-1636.3
§ 14.1-60	§ 15.2-1636.4
§ 14.1-61	§ 15.2-1636.11
§ 14.1-62	§ 15.2-1636.12
§ 14.1-62.1	Repealed 1970
§ 14.1-63	§ 15.2-1636.13
§ 14.1-64	§ 15.2-1636.14
§ 14.1-65	§ 15.2-1636.15
§ 14.1-66	§ 15.2-1636.16
§ 14.1-67	§ 15.2-1636.17
§ 14.1-68	§ 15.2-1609.2
§ 14.1-69	§ 15.2-1609.3
§ 14.1-70	§ 15.2-1609.1
§ 14.1-71	Repealed 1983
§ 14.1-72	Repealed 1983
§ 14.1-73	§ 15.2-1609.2

COMPARABLE SECTIONS OF TITLE 14.1 AND VARIOUS CODE SECTIONS

OLD SECTION	NEW SECTION
§ 14.1-124	Repeal
§ 14.1-125	§ 16.1-69.48:2
§ 14.1-125.1	§ 17.1-278
§ 14.1-125.2	§ 17.1-279
§ 14.1-126	Repeal
§ 14.1-127	Repealed 1968
§ 14.1-1284	Repealed 1975
§ 14.1-128.1	Repealed 1982
§ 14.1-129	Repealed 1973
§ 14.1-130	Repeal
§ 14.1-131	§ 17.1-280
§ 14.1-132	Repealed 1968
§ 14.1-133	§ 8.01-609.1
§ 14.1-133.1	§ 8.01-618.1
§ 14.1-133.2	§ 17.1-281
§ 14.1-133.3	§ 9-178.1
§ 14.1-133.4	§ 9-178.2
§ 14.1-134	Repealed 1980
§ 14.1-134.1	§ 16.1-69.48:3
§ 14.1-135	Repealed 1994
§ 14.1-135.1	§ 17.1-282
§ 14.1-136	§ 17.1-283
§ 14.1-137	Repeal
§ 14.1-138	§ 17.1-283
§ 14.1-139	§ 17.1-283
§ 14.1-140	§ 17.1-284
§ 14.1-140.1	§ 17.1-285
§ 14.1-141	§ 15.2-1636.18
§ 14.1-142	§ 15.2-1636.19
§ 14.1-143	Repealed 1981
§ 14.1-143.1	Repealed 1982
§ 14.1-143.2	§ 17.1-287
§ 14.1-144	Repealed 1981
§ 14.1-144.1	§ 17.1-288

COMPARABLE SECTIONS OF TITLE 14.1 AND VARIOUS CODE SECTIONS

OLD SECTION	NEW SECTION
§ 14.1-94	§ 15.2-1609.3
§ 14.1-95	§ 15.2-1609.3
§ 14.1-95.1	§ 17.1-272
§ 14.1-96	§ 17.1-268
§ 14.1-97	§ 17.1-269
§ 14.1-98	§ 17.1-270
§ 14.1-99	Repeal
§ 14.1-100	Repeal
§ 14.1-101	§ 17.1-271
§ 14.1-102	Repeal
§ 14.1-103	§ 2.1-71.2
§ 14.1-104	§ 30-14.01
§ 14.1-105	§ 17.1-272
§ 14.1-105.1	Delete
§ 14.1-106	Repeal
§ 14.1-107	Repeal
§ 14.1-108	§ 17.1-274
§ 14.1-109	Repealed 1995
§ 14.1-110	§ 17.1-274
§ 14.1-111	Repealed 1995
§ 14.1-111.1	§ 17.1-275
§ 14.1-112	§ 17.1-275
§ 14.1-112	§ 17.1-275
§ 14.1-112.1	Repeal
§ 14.1-112.2 thru § 14.1-118	Repealed 1994
§ 14.1-118.1	§ 17.1-276
§ 14.1-119	Repeal
§ 14.1-120	§ 17.1-328
§ 14.1-120.1	§ 17.1-418
§ 14.1-121	§ 15.2-1627.3
§ 14.1-122	Repeal
§ 14.1-122.1	§ 17.1-277
§ 14.1-123	§ 16.1-69.48:1

**COMPARABLE SECTIONS OF TITLE 14.1 AND
VARIOUS CODE SECTIONS**

OLD SECTION	NEW SECTION
§ 14.1-177	§ 17.1-600
§ 14.1-178	§ 17.1-601
§ 14.1-179	§ 17.1-602
§ 14.1-180	§ 17.1-603
§ 14.1-181	§ 17.1-604
§ 14.1-182	§ 17.1-605
§ 14.1-183	§ 17.1-606
§§ 14.1-184, 14.1-184.1	Repealed 1975
§ 14.1-185	§ 17.1-607
§ 14.1-186	§ 17.1-608
§ 14.1-187	§ 17.1-609
§ 14.1-188	§ 17.1-610
§ 14.1-189	§ 17.1-611
§ 14.1-190	§ 17.1-612
§ 14.1-191	§ 17.1-613
§ 14.1-192	§ 17.1-614
§ 14.1-193	§ 17.1-615
§ 14.1-194	§ 17.1-616
§ 14.1-195	§ 17.1-617
§ 14.1-195.1	§ 17.1-618
§ 14.1-195.2	§ 17.1-619
§ 14.1-195.3	§ 17.1-620
§ 14.1-195.4	§ 17.1-621
§ 14.1-195.5	§ 17.1-622
§ 14.1-195.6	§ 17.1-623
§ 14.1-196	§ 17.1-624
§ 14.1-197	§ 17.1-625
§ 14.1-198	§ 17.1-626
§ 14.1-199	§ 17.1-627
§ 14.1-200	§ 17.1-628
§ 14.1-200.1	Repealed 1975
§ 14.1-200.2	Repealed 1982
§ 14.1-201	§ 17.1-629

COMPARABLE SECTIONS OF TITLE 17

NEW SECTION	OLD SECTION
§ 17.1-101	§ 17-2
§ 17.1-102	§ 17-3.1
§ 17.1-103	§ 17-5
§ 17.1-104	§ 17-6
§ 17.1-105	§ 17-7
§ 17.1-106	§ 17-7.01
§ 17.1-107	§ 17-7.1
§ 17.1-108	§ 17-7.2
§ 17.1-109	§ 17-8
§ 17.1-109	§ 17-8
§ 17.1-110	§ 17-9
§ 17.1-110	§ 17-9
§ 17.1-111	§ 17-10
§ 17.1-112	§ 17-13
§ 17.1-113	§ 17-14
§ 17.1-114	§§ 17-15, 17-18
§ 17.1-115	§ 17-16
§ 17.1-116	§§ 17-17, 17-18
§ 17.1-117	§ 17-19
§ 17.1-118	§ 17-19.1
§ 17.1-119	§ 17-21
§ 17.1-120	§ 17-23
§ 17.1-121	§ 17-24
§ 17.1-122	§ 17-25
§ 17.1-123	§ 17-27
§ 17.1-124	§ 17-28
§ 17.1-124	§ 17-28
§ 17.1-125	§ 17-28.1
§ 17.1-126	§ 17-29
§ 17.1-127	§ 17-30
§ 17.1-128	§ 17-30.1
§ 17.1-129	§ 17-30.3
§ 17.1-130	§ 17-32

COMPARABLE SECTIONS OF TITLE 17

NEW SECTION	OLD SECTION
§ 17.1-131	§ 17-32.1
§ 17.1-200	§ 17-33
§ 17.1-201	§ 17-34
§ 17.1-202	§ 17-35
§ 17.1-203	§ 17-37
§ 17.1-204	§ 17-39
§ 17.1-205	Reserved
§ 17.1-206	§ 17-40
§ 17.1-207	§ 17-41
§ 17.1-208	§ 17-43
§ 17.1-209	§ 17-44
§ 17.1-210	§ 17-45
§ 17.1-211	§ 17-46.1
§ 17.1-212	§ 17-47
§ 17.1-213	§ 17-47.4
§ 17.1-214	§ 17-50
§ 17.1-215	§ 17-51
§ 17.1-216	§ 17-52
§ 17.1-217	§ 17-53
§ 17.1-218	§ 17-54
§ 17.1-219	§ 17-55
§ 17.1-220	§ 17-56
§ 17.1-221	§ 17-57
§ 17.1-222	§ 17-58
§ 17.1-223	§ 17-59
§ 17.1-224	§ 17-59.1
§ 17.1-225	§ 17-59.2
§ 17.1-226	§ 17-59.3
§ 17.1-227	§ 17-60
§ 17.1-228	§ 17-60.1
§ 17.1-229	§ 17-61
§ 17.1-230	§ 17-62
§ 17.1-231	§ 17-63
§ 17.1-232	§ 17-64

COMPARABLE SECTIONS OF TITLE 17

NEW SECTION	OLD SECTION
§ 17.1-233	§ 17-65
§ 17.1-234	§ 17-66
§ 17.1-235	§ 17-67
§ 17.1-236	§ 17-68
§ 17.1-237	§ 17-69
§ 17.1-238	§ 17-69.1
§ 17.1-239	§ 17-70
§ 17.1-240	§ 17-70.1
§ 17.1-241	§ 17-71
§ 17.1-242	§ 17-72
§ 17.1-243	§ 17-73
§ 17.1-244	§ 17-74
§ 17.1-245	§ 17-75
§ 17.1-246	§ 17-76
§ 17.1-247	§ 17-77
§ 17.1-248	§ 17-78
§ 17.1-249	§ 17-79
§ 17.1-250	§ 17-79.1
§ 17.1-251	§ 17-79.2
§ 17.1-252	§ 17-79.3
§ 17.1-253	§ 17-80
§ 17.1-253	§ 17-81
§ 17.1-253	§ 17-82
§ 17.1-253	§ 17-83
§ 17.1-254	§ 17-83.1
§ 17.1-255	§ 17-83.1:1
§ 17.1-256	§ 17-83.1:2
§ 17.1-257	§ 17-83.1:3
§ 17.1-258	§ 17-83.1:4
§ 17.1-259	§ 17-83.2
§ 17.1-259	§ 17-83.3
§ 17.1-260	§ 17-83.4
§ 17.1-261	§ 17-84
§ 17.1-262	§ 17-85

COMPARABLE SECTIONS OF TITLE 17

NEW SECTION	OLD SECTION
§ 17.1-262	§ 17-86
§ 17.1-263	§ 17-87
§ 17.1-264	§ 17-90
§ 17.1-264	§ 17-91
§ 17.1-265	§ 17-92
§ 17.1-300	§ 17-93
§ 17.1-301	§ 17-95
§ 17.1-302	§ 17-95.1
§ 17.1-303	§ 17-93.1
§ 17.1-304	§ 17-99
§ 17.1-305	§ 17-100
§ 17.1-305	§ 17-101
§ 17.1-306	§ 17-102
§ 17.1-307	§ 17-103
§ 17.1-308	§ 17-94
§ 17.1-309	§ 17-96
§ 17.1-310	§ 17-97
§ 17.1-311	§ 17-98
§ 17.1-312	§ 17-110
§ 17.1-313	§ 17-110.1
§ 17.1-313	§ 17-110.2
§ 17.1-314	§ 17-111.1
§ 17.1-315	§ 17-111.2
§ 17.1-316	§ 17-111.3
§ 17.1-317	§ 17-111.4
§ 17.1-317	§ 17-111.4
§ 17.1-318	§ 17-111.5
§ 17.1-319	§ 17-111.6
§ 17.1-319	§ 17-111.6
§ 17.1-320	§ 17-111.7
§ 17.1-321	§ 17-113
§ 17.1-321	§ 17-114
§ 17.1-322	§ 17-115
§ 17.1-323	§ 17-116

COMPARABLE SECTIONS OF TITLE 17

NEW SECTION	OLD SECTION
§ 17.1-400	§ 17-116.01
§ 17.1-401	§ 17-116.01:1
§ 17.1-402	§ 17-116.02
§ 17.1-403	§ 17-116.03
§ 17.1-404	§ 17-116.04
§ 17.1-405	§ 17-116.05
§ 17.1-405	§ 17-116.05
§ 17.1-406	§ 17-116.05:1
§ 17.1-407	§ 17-116.05:2
§ 17.1-408	§ 17-116.05:3
§ 17.1-409	§ 17-116.06
§ 17.1-410	§ 17-116.07
§ 17.1-411	§ 17-116.08
§ 17.1-412	§ 17-116.09
§ 17.1-413	§ 17-116.010
§ 17.1-414	§ 17-116.011
§ 17.1-415	§ 17-116.012
§ 17.1-416	§ 17-116.013
§ 17.1-417	§ 17-116.014
§ 17.1-500	§ 17-116.1
§ 17.1-501	§ 17-116.2
§ 17.1-502	§ 17-116.3
§ 17.1-503	§ 17-116.4
§ 17.1-505	§ 17-118
§ 17.1-506	§ 17-119.1:1
§ 17.1-507	§ 17-119.1:2
§ 17.1-508	§ 17-119.2
§ 17.1-509	§ 17-120
§ 17.1-510	§ 17-121
§ 17.1-511	§ 17-122
§ 17.1-512	§ 17-122.1
§ 17.1-513	§ 17-123
§ 17.1-514	§ 17-123.1
§ 17.1-515	§ 17-124

COMPARABLE SECTIONS OF TITLE 17

NEW SECTION	OLD SECTION
§ 17.1-516	§ 17-1
§ 17.1-517	§ 17-127.21
§ 17.1-518	§ 17-129
§ 17.1-519	§ 17-130
§ 17.1-520	§ 17-131
§ 17.1-521	§ 17-132
§ 17.1-522	§ 17-133
§ 17.1-700	§ 17-222
§ 17.1-700	§ 17-222
§ 17.1-701	§ 17-223
§ 17.1-702	§ 17-224
§ 17.1-703	§ 17-225
§ 17.1-704	§ 17-226
§ 17.1-705	§ 17-227
§ 17.1-706	§ 17-228
§ 17.1-707	§ 17-229
§ 17.1-708	§ 17-230
§ 17.1-709	§ 17-231
§ 17.1-800	§ 17-232
§ 17.1-801	§ 17-233
§ 17.1-802	§ 17-234
§ 17.1-803	§ 17-235
§ 17.1-804	§ 17-236
§ 17.1-805	§ 17-237
§ 17.1-806	§ 17-238

REPEALED SECTIONS

§ 17-3	Repealed 1971
§ 17-4	Repealed 1971
§ 17-11	Repealed 1973
§ 17-12	Repeal
§ 17-14.1	Repeal
§ 17-20	Repeal
§ 17-22	Repeal

COMPARABLE SECTIONS OF TITLE 17

REPEALED SECTIONS

§ 17-26	Repeal
§ 17-30.1:1	Repealed 1975
§ 17-30.2	Repealed 1975
§ 17-31	Repealed 1968
§ 17-36	Repeal
§ 17-38	Repeal
§ 17-46	Repeal
§ 17-47.1	Repealed 1981
§ 17-47.2	Repealed 1981
§ 17-47.3	Repealed 1981
§ 17-48	Repealed 1992
§ 17-49	Repealed 1972
§ 17-88	Repeal
§ 17-89	Repeal
§ 17-104	Repealed 1971
§ 17-105	Repealed 1971
§ 17-106	Repealed 1971
§ 17-107	Repealed 1971
§ 17-108	Repealed 1971
§ 17-109	Repealed 1971
§ 17-111	Repeal
§ 17-112	Repeal
§ 17-116.05:4	Repeal
§ 17-116.05:5	Repeal
§ 17-117	Repeal
§ 17-119	Repealed 1973
§ 17-119.1	Repealed 1973
§ 17-127 - 17-127.16	Repealed 1973
§ 17-127.17	Repealed 1966
§ 17-127.18 - 17-127.20	Repealed 1973
§ 17-128	Repeal
§ 17-134	Repeal
§ 17-135 - 17-144.1	Repealed 1973

COMPARABLE SECTIONS OF TITLE 17

REPEALED SECTIONS

§ 17-145 - 17-169.4	Repealed 1973
§ 17-170 - 17-182	Repealed 1954
§ 17-181 - 17-208.1	Repealed 1973
§ 17-209 - 17-221	Repealed 1973
§ 17-221.1 - 221.6	Repealed 1973
§ 17-221.7 - 17-221.8	Repealed 1973
§ 17-221.9	Repealed 1962
§ 17-221.10	Repealed 1973
§ 17-221.11 - 17-221.12	Repealed 1962
§ 17-221.13	Repealed 1973
§ 17-221.14	Repealed 1962
§ 17-221.15 - 17-221.29	Repealed 1973

§ 17-117.1	Not set out - Repeal
§ 17-118.1	Not set out - Repeal
§ 17-125	Not set out
§ 17-126	Not set out
§ 17-126.1	Not set out
§ 17-126.2	Not set out
§ 17-126.3	Not set out
§ 17-126.4	Not set out
§ 17-126.5	Not set out
§ 17-126.6	Not set out
§ 17-126.7	Not given effect - Repeal

§ 17-225.1	Expired
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COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-1	§ 17.1-516
§ 17-2	§ 17.1-101
§ 17-3	Repealed 1971
§ 17-3.1	§ 17.1-102
§ 17-4	Repealed 1971
§ 17-5	§ 17.1-103
§ 17-6	§ 17.1-104
§ 17-7	§ 17.1-105
§ 17-7.01	§ 17.1-106
§ 17-7.1	§ 17.1-107
§ 17-7.2	§ 17.1-108
§ 17-8	§ 17.1-109
§ 17-8	§ 17.1-109
§ 17-9	§ 17.1-110
§ 17-9	§ 17.1-110
§ 17-10	§ 17.1-111
§ 17-11	Repealed 1973
§ 17-12	Repeal
§ 17-13	§ 17.1-112
§ 17-14	§ 17.1-113
§ 17-14.1	Repeal
§ 17-15	§ 17.1-114
§ 17-16	§ 17.1-115
§ 17-17	§ 17.1-116
§ 17-18	§§ 17.1-114 and 17.1-116
§ 17-19	§ 17.1-117
§ 17-19.1	§ 17.1-118
§ 17-20	Repeal
§ 17-21	§ 17.1-119
§ 17-22	Repeal
§ 17-23	§ 17.1-120
§ 17-24	§ 17.1-121
§ 17-25	§ 17.1-122
§ 17-26	Repeal
§ 17-27	§ 17.1-123

COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-28	§ 17.1-124
§ 17-28	§ 17.1-124
§ 17-28.1	§ 17.1-125
§ 17-29	§ 17.1-126
§ 17-30	§ 17.1-127
§ 17-30.1	§ 17.1-128
§ 17-30.1:1	Repealed 1975
§ 17-30.2	Repealed 1975
§ 17-30.3	§ 17.1-129
§ 17-31	Repealed 1968
§ 17-32	§ 17.1-130
§ 17-32.1	§ 17.1-131
§ 17-33	§ 17.1-200
§ 17-34	§ 17.1-201
§ 17-35	§ 17.1-202
§ 17-36	Repeal
§ 17-37	§ 17.1-203
§ 17-38	Repeal
§ 17-39	§ 17.1-204
§ 17-40	§ 17.1-206
§ 17-41	§ 17.1-207
§ 17-42	Repeal
§ 17-43	§ 17.1-208
§ 17-44	§ 17.1-209
§ 17-45	§ 17.1-210
§ 17-46	Repeal
§ 17-46.1	§ 17.1-211
§ 17-47	§ 17.1-212
§ 17-47.1	Repealed 1981
§ 17-47.2	Repealed 1981
§ 17-47.3	Repealed 1981
§ 17-47.4	§ 17.1-213
§ 17-48	Repealed 1992
§ 17-49	Repealed 1972
§ 17-50	§ 17.1-214

COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-51	§ 17.1-215
§ 17-52	§ 17.1-216
§ 17-53	§ 17.1-217
§ 17-54	§ 17.1-218
§ 17-55	§ 17.1-219
§ 17-56	§ 17.1-220
§ 17-57	§ 17.1-221
§ 17-58	§ 17.1-222
§ 17-59	§ 17.1-223
§ 17-59.1	§ 17.1-224
§ 17-59.2	§ 17.1-225
§ 17-59.3	§ 17.1-226
§ 17-60	§ 17.1-227
§ 17-60.1	§ 17.1-228
§ 17-61	§ 17.1-229
§ 17-62	§ 17.1-230
§ 17-63	§ 17.1-231
§ 17-64	§ 17.1-232
§ 17-65	§ 17.1-233
§ 17-66	§ 17.1-234
§ 17-67	§ 17.1-235
§ 17-68	§ 17.1-236
§ 17-69	§ 17.1-237
§ 17-69.1	§ 17.1-238
§ 17-70	§ 17.1-239
§ 17-70.1	§ 17.1-240
§ 17-71	§ 17.1-241
§ 17-72	§ 17.1-242
§ 17-73	§ 17.1-243
§ 17-74	§ 17.1-244
§ 17-75	§ 17.1-245
§ 17-76	§ 17.1-246
§ 17-77	§ 17.1-247
§ 17-78	§ 17.1-248
§ 17-79	§ 17.1-249

COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-79.1	§ 17.1-250
§ 17-79.2	§ 17.1-251
§ 17-79.3	§ 17.1-252
§ 17-80	§ 17.1-253
§ 17-81	§ 17.1-253
§ 17-82	§ 17.1-253
§ 17-83	§ 17.1-253
§ 17-83.1	§ 17.1-254
§ 17-83.1:1	§ 17.1-255
§ 17-83.1:2	§ 17.1-256
§ 17-83.1:3	§ 17.1-257
§ 17-83.1:4	§ 17.1-258
§ 17-83.2	§ 17.1-259
§ 17-83.3	§ 17.1-259
§ 17-83.4	§ 17.1-260
§ 17-84	§ 17.1-261
§ 17-85	§ 17.1-262
§ 17-86	§ 17.1-262
§ 17-87	§ 17.1-263
§ 17-88	Repeal
§ 17-89	Repeal
§ 17-90	§ 17.1-264
§ 17-91	§ 17.1-264
§ 17-92	§ 17.1-265
§ 17-93	§ 17.1-300
§ 17-93.1	§ 17.1-303
§ 17-94	§ 17.1-308
§ 17-95	§ 17.1-301
§ 17-95.1	§ 17.1-302
§ 17-96	§ 17.1-309
§ 17-97	§ 17.1-310
§ 17-98	§ 17.1-311
§ 17-99	§ 17.1-304
§ 17-100	§ 17.1-305
§ 17-101	§ 17.1-305

COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-102	§ 17.1-306
§ 17-103	§ 17.1-307
§ 17-104	Repealed 1971
§ 17-105	Repealed 1971
§ 17-106	Repealed 1971
§ 17-107	Repealed 1971
§ 17-108	Repealed 1971
§ 17-109	Repealed 1971
§ 17-110	§ 17.1-312
§ 17-110.1	§ 17.1-313
§ 17-110.2	§ 17.1-313
§ 17-111	Repeal
§ 17-111.1	§ 17.1-314
§ 17-111.2	§ 17.1-315
§ 17-111.3	§ 17.1-316
§ 17-111.4	§ 17.1-317
§ 17-111.4	§ 17.1-317
§ 17-111.5	§ 17.1-318
§ 17-111.6	§ 17.1-319
§ 17-111.6	§ 17.1-319
§ 17-111.7	§ 17.1-320
§ 17-112	Repeal
§ 17-113	§ 17.1-321
§ 17-114	§ 17.1-321
§ 17-115	§ 17.1-322
§ 17-116	§ 17.1-323
§ 17-116.01	§ 17.1-400
§ 17-116.01:1	§ 17.1-401
§ 17-116.02	§ 17.1-402
§ 17-116.03	§ 17.1-403
§ 17-116.04	§ 17.1-404
§ 17-116.05	§ 17.1-405
§ 17-116.05	§ 17.1-405
§ 17-116.05:1	§ 17.1-406
§ 17-116.05:2	§ 17.1-407

COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-116.05:3	§ 17.1-408
§ 17-116.05:4	Repeal
§ 17-116.05:5	Repeal
§ 17-116.06	§ 17.1-409
§ 17-116.07	§ 17.1-410
§ 17-116.08	§ 17.1-411
§ 17-116.09	§ 17.1-412
§ 17-116.010	§ 17.1-413
§ 17-116.011	§ 17.1-414
§ 17-116.012	§ 17.1-415
§ 17-116.013	§ 17.1-416
§ 17-116.014	§ 17.1-417
§ 17-116.1	§ 17.1-500
§ 17-116.2	§ 17.1-501
§ 17-116.3	§ 17.1-502
§ 17-116.4	§ 17.1-503
§ 17-117	Repeal
§ 17-117.1	Not set out - repeal
§ 17-118	§ 17.1-505
§ 17-118.1	Not set out - repeal
§ 17-119	Repealed 1973
§ 17-119.1	Repealed 1973
§ 17-119.1:1	§ 17.1-506
§ 17-119.1:2	§ 17.1-507
§ 17-119.2	§ 17.1-508
§ 17-120	§ 17.1-509
§ 17-121	§ 17.1-510
§ 17-122	§ 17.1-511
§ 17-122.1	§ 17.1-512
§ 17-123	§ 17.1-513
§ 17-123.1	§ 17.1-514
§ 17-124	§ 17.1-515
§ 17-125	Not set out
§ 17-126	Not set out
§ 17-126.1	Not set out

COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-126.2	Not set out
§ 17-126.3	Not set out
§ 17-126.4	Not set out
§ 17-126.5	Not set out
§ 17-126.6	Not set out
§ 17-126.7	Not given effect - Repeal
§§ 17-127 - 17-127.16	Repealed 1973
§ 17-127.17	Repealed 1966
§§ 17-127.18 - 17-127.20	Repealed 1973
§ 17-127.21	§ 17.1-517
§ 17-128	Repeal
§ 17-129	§ 17.1-518
§ 17-130	§ 17.1-519
§ 17-131	§ 17.1-520
§ 17-132	§ 17.1-521
§ 17-133	§ 17.1-522
§ 17-134	Repeal
§§ 17-135 - 17-144.1	Repealed 1973
§§ 17-145 - 17-169.4	Repealed 1973
§§ 17-170 - 17-182	Repealed 1954
§§ 17-181 - 17-208.1	Repealed 1973
§§ 17-209 - 17-221	Repealed 1973
§§ 17-221.1 - 221.6	Repealed 1973
§§ 17-221.7 - 17-221.8	Repealed 1973
§ 17-221.9	Repealed 1962
§ 17-221.10	Repealed 1973
§§ 17-221.11 - 17-221.12	Repealed 1962
§ 17-221.13	Repealed 1973
§ 17-221.14	Repealed 1962
§§ 17-221.15 - 17-221.29	Repealed 1973
§ 17-222	§ 17.1-700

COMPARABLE SECTIONS OF TITLES 17 AND 17.1

OLD SECTION	NEW SECTION
§ 17-222	§ 17.1-700
§ 17-223	§ 17.1-701
§ 17-224	§ 17.1-702
§ 17-225	§ 17.1-703
§ 17-225.1	Expired
§ 17-226	§ 17.1-704
§ 17-227	§ 17.1-705
§ 17-228	§ 17.1-706
§ 17-229	§ 17.1-707
§ 17-230	§ 17.1-708
§ 17-231	§ 17.1-709
§ 17-232	§ 17.1-800
§ 17-233	§ 17.1-801
§ 17-234	§ 17.1-802
§ 17-235	§ 17.1-803
§ 17-236	§ 17.1-804
§ 17-237	§ 17.1-805
§ 17-238	§ 17.1-806



COMMONWEALTH of VIRGINIA

WILLIAM E. LANDSIDE, CPA
COMPTROLLER

Office of the Comptroller

P. O. BOX 1971
RICHMOND, VIRGINIA 23215-1971

December 9, 1997

Ms. Joan E. Putney, Senior Attorney
Division of Legislative Services
General Assembly Building
910 Capitol Street, 2nd Floor
Richmond, Virginia 23219

Dear Ms. Putney:

This letter is in response to your questions regarding the recodification of Title 14.1.

p. 1 line 9-9
p. 2 line 8
I believe the term "salary" in the definition is appropriate. With regard to the term "state officer", we agree this term is not generally defined in law. In the context of Title 14.1 we believe it means elected or appointed officials as distinct from employees in the classified civil service.

In response to your question on the general content of 2.1-20.6, we find this section to be confusing and possibly internally inconsistent. For the great majority of state employees, salary schedules are established by the Department of Personnel and Training acting under the Governor's authority as chief personnel officer. Salaries are increased from time to time through cost of living or merit adjustments authorized by the Appropriation process. There is no requirement that boards and commissions approve these adjustments. We believe it is reasonable to view the intent of this section as a regulation of only those cases where boards and commissions have the power in law to supplement salaries payable from Commonwealth funds using non-state funds. Boards of Visitors and the Board of the Port Authority are examples. Only in these cases would it make sense to have both the authorizing board and the Governor approve an increase in the supplement. Although we believe this is a reasonable interpretation of the legislative intent, it is something you may want to discuss with the Code Commission.

The balance of the recodification appears appropriate.

Sincerely,

William E. Landside

WEL/ewa

copy: David A. VonMoll, State Payroll Manager



COMMONWEALTH of VIRGINIA

Department of the Treasury

SUSAN F. DEWEY
TREASURER OF VIRGINIA

P. O. BOX 1879
RICHMOND, VIRGINIA 23218-1879
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December 10, 1997

Joan E. Putney
Senior Attorney
Division of Legislative Service
General Assembly Building
910 Capitol Street
Richmond, Virginia 23219

Dear Ms. Putney:

I am writing with regard to your inquiry of November 13, 1997, related to the Virginia Code Commission's recodification of Title 14.1. In particular, the Commission is considering the inclusion of language in Section 14.1-15, which deals with the disposition of fees of the State Treasurer, with Section 2.1-180. In addition to responding to the questions you have posed, if the Commission amends the statute, I would recommend the deletion of one sentence as a "housekeeping" measure. The following comments address your questions and describes the reason for the housekeeping measure:

Local State Depositories and Concentration Banks *p. 22 lines 8 + 13*

A state depository is a financial institution where the Department of the Treasury (Treasury) maintains a deposit account in the name of the Treasurer of Virginia for the depositing of state funds. We currently maintain depository accounts with eighty (89) different financial institutions throughout the Commonwealth. This is to ensure that there are adequate branch facilities of these financial institutions so that a local state depository exists wherever state funds are collected. "Local" is used to denote the location of the financial institution branch in relation to the depositor of state funds. If this description is the cause of confusion, the label could easily be changed to simply "state depository".

Our depository network is categorized into two types of financial institutions, concentration banks and regional banks. A concentration bank is one that Treasury utilizes for various services to meet its fiduciary responsibilities, including depository services. These are the larger banks that have the technical capabilities to meet the complex needs of the Commonwealth. The term continues to be relevant. A regional bank is usually a small, community bank in an area where our concentration banks do not have an adequate branch network to meet the depositing needs of local agencies, institutions and other depositors of

Joan E. Putney
December 10, 1997
Page 2 of 3

state funds. Money deposited into these regional banks is moved daily to a concentration bank where it can be invested and/or used to pay for the services, payroll, and other expenses and programs of the Commonwealth. Branches of our concentration and regional banks receive deposits from approximately 1,450 depositing locations throughout the Commonwealth.

As mergers and reorganizations of the Virginia banking community continue, the surviving or acquiring concentration banks will assume many of the services that were previously performed by the acquired institution. In those instance where the services are no longer offered, or not offered in conformity with our requirements, we will need to search for and contract with alternative providers.

Endowment Funds or Gifts to Institutions p. 22 - line 22

Endowment funds or gifts to institutions are one of several fund groups excluded from the Chart of Accounts for Virginia State-Supported Colleges and Universities. Generally, endowment and similar funds are those for which the donor or other external agencies have stipulated that the fund is not expendable, but is to remain inviolate in perpetuity and is to be invested for the purpose of producing present and future income. Such funds are held directly by the institutions or by private non-profit foundations that support their respective institution.

Private Funds of Students or Inmates p. 22 line 24

Certain student funds held by an institution of higher education are in a fund group similar to endowment funds and are also excluded from the Chart of Accounts. In the course of their operations institutions of higher education may hold loan and other funds as a custodial or fiscal agent for individual students. Such funds are considered trust and agency funds and as such may be held in "local" agency accounts and not deposited into the State Treasury. Likewise, other institutions, such as correctional facilities, have traditionally held similar funds belonging to inmates in local agency accounts. Generally, the funds being held for individuals in either case are relatively small amounts, especially in the case of the latter category. In addition to the fact that such funds do not belong to the Commonwealth but belong to the individuals for whom they are held, it is also more efficient and expeditious to receive and distribute such funds through local agency accounts rather than through the State Treasury.

Joan E. Putney
December 10, 1997
Page 3 of 3

Outdated language

The first sentence in the forth paragraph of Section 2.1-180 provides that:

“But in no case shall a state depository receive a larger sum to the credit of the State Treasurer than the amount covered by surety bond and securities held by the State Treasurer to protect state funds on deposit in such depository.”

This language is outdated and has been superseded by the Security of Public Deposits Act (SPDA). Section 2.1-211 of that Act requires that all state funds be secured in accordance with the SPDA. Section 2.1-362 of the SPDA requires that no qualified public depository shall accept or retain any public deposit which is required to be secured unless it has deposited eligible collateral equal to its required collateral with some proper depository pursuant to this chapter. If the Code Commission does amend Section 2.1-180, it would be helpful if you could include the deletion of this unnecessary language as a housekeeping measure.

I hope this information will be helpful in your review with the Code Commission. If you need additional information or have any questions please contact me at 225-2391 or Braxton Powell, Director of Financial Policy, at 225-3131.

Sincerely,



Arthur N. Bowen, III
Deputy State Treasury

ANB/jbp

C: Susan F. Dewey
J. Braxton Powell
Director of Financial Policy

