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SENATE BILL NO. 776

Senate Amendments in [] - February 4, 2026

A *BILL to amend and reenact § 19.2-305 of the Code of Virginia, relating to requiring fines, costs, restitution for damages, support, or community services from probationer; failure to pay.*

Patron Prior to Engrossment—Senator Mulchi

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-305 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-305. Requiring fines, costs, restitution for damages, support, or community services from probationer.

A. While on probation the defendant may be required to pay in one or several sums a fine or costs, or both such fine and costs, imposed at the time of being placed on probation as a condition of such probation, and the failure of the defendant to pay such fine or costs, or both such fine and costs, at the prescribed time or times may be deemed a breach of such probation. *However, such failure to pay shall not, by itself, be deemed a breach of such probation unless the court finds, after notice to the defendant and his counsel and a hearing, that the defendant has [(+)] willfully refused to pay [~~or (ii) failed to make sufficient bona fide efforts to acquire the resources to pay~~] . In assessing such failure to pay under this section, the court shall presume that a defendant who is indigent pursuant to § 19.2-159, or who has been deemed indigent pursuant to § 19.2-159 during the pendency of a criminal or traffic case, is unable to pay such fines and costs. Absent any specific finding to the contrary, the court shall order such defendant relief from any alleged breach of probation.* The provisions of this subsection shall also apply to any person ordered to pay costs pursuant to § 19.2-303.3.

B. A defendant placed on probation following conviction may be required to make at least partial restitution or reparation to the aggrieved party or parties for damages or loss caused by the offense for which conviction was had, or may be required to provide for the support of his spouse or others for whose support he may be legally responsible, or may be required to perform community services. The defendant may submit a proposal to the court for making restitution, for providing for support, or for performing community services.

C. No defendant shall be kept under supervised probation solely because of his failure to make full payment of fines, fees, or costs, provided that, following notice by the probation and parole officer to each court and attorney for the Commonwealth in whose jurisdiction any fines, fees, or costs are owed by the defendant, no such court or attorney for the Commonwealth objects to his removal from supervised probation.

ENGROSSED

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