

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [S 776]
 5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

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

8 **§ 19.2-305. Requiring fines, costs, restitution for damages, support, or community services from**
 9 **probationer.**

10 A. While on probation the defendant may be required to pay in one or several sums a fine or costs, or both
 11 such fine and costs, imposed at the time of being placed on probation as a condition of such probation, and
 12 the failure of the defendant to pay such fine or costs, or both such fine and costs, at the prescribed time or
 13 times may be deemed a breach of such probation. *However, such failure to pay shall not, by itself, be deemed*
 14 *a breach of such probation unless the court finds, after notice to the defendant and his counsel and a hearing,*
 15 *that the defendant has willfully refused to pay. In assessing such failure to pay under this section, the court*
 16 *shall presume that a defendant who is indigent pursuant to § 19.2-159, or who has been deemed indigent*
 17 *pursuant to § 19.2-159 during the pendency of a criminal or traffic case, is unable to pay such fines and*
 18 *costs. Absent any specific finding to the contrary, the court shall dismiss any such alleged breach of*
 19 *probation. However, such fines and costs shall remain due until paid, and all methods of payment and*
 20 *collection already in place to satisfy or collect any outstanding fines or costs shall remain available to the*
 21 *court after such dismissal.* The provisions of this subsection shall also apply to any person ordered to pay
 22 costs pursuant to § 19.2-303.3.

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

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

ENROLLED

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