

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 19.2-340, 19.2-341, 19.2-349, and 19.2-354 of the Code of Virginia, relating*  
 3 *to fines and costs; period of limitations on collection.*

4 [H 17]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 19.2-340, 19.2-341, 19.2-349, and 19.2-354 of the Code of Virginia are amended and**  
8 **reenacted as follows:**9 **§ 19.2-340. Fines; how recovered; in what name.**

10 A. When any statute or ordinance prescribes a fine, unless it is otherwise expressly provided or would be  
 11 inconsistent with the manifest intention of the General Assembly, it shall be paid to the Commonwealth if  
 12 prescribed by a statute and recoverable by presentment, indictment, information, or warrant and paid to the  
 13 locality if prescribed by an ordinance and recoverable by warrant. Whenever any warrant or summons is  
 14 issued pursuant to § 19.2-72 or 19.2-74 for an offense in violation of any county, city, or town ordinance that  
 15 is similar to any provision of this Code, and such warrant or summons references the offense using both the  
 16 citation corresponding to the county, city, or town ordinance and the specific provision of this Code, any fine  
 17 prescribed by the county, city, or town ordinance shall be paid to the locality. Fines imposed and costs taxed  
 18 in a criminal or traffic prosecution, including a prosecution for a violation of an ordinance adopted pursuant  
 19 to § 46.2-1220, for committing an offense shall constitute a judgment and, if not paid at the time they are  
 20 imposed, execution may issue thereon in the same manner as upon any other monetary judgment, subject to  
 21 the period of limitations provided by § 19.2-341.

22 *B. Notwithstanding any other provision of law, upon the expiration of the period of limitations provided*  
 23 *by § 19.2-341, no action shall be brought to collect the debt.*

24 *C. The period of limitations provided by § 19.2-341 shall apply regardless of the method of collection*  
 25 *applicable pursuant to § 19.2-349 and shall not be extended or revived on account of a partial payment, a*  
 26 *written or verbal affirmation of fines or costs, or a change in collection methods. Upon the expiration of the*  
 27 *period of limitations, it shall not be revived or restarted by any means.*

28 **§ 19.2-341. Penalties other than fines; how recovered; in what name; limitation of actions.**

29 A. When any statute or ordinance prescribes a monetary penalty other than a fine, unless it is otherwise  
 30 expressly provided or would be inconsistent with the manifest intention of the General Assembly, it shall be  
 31 paid to the Commonwealth if prescribed by a statute and paid to the locality if prescribed by an ordinance and  
 32 recoverable by warrant, presentment, indictment, or information. Penalties imposed and costs taxed in any  
 33 such proceeding shall constitute a judgment and, if not paid at the time they are imposed, execution may issue  
 34 thereon in the same manner as upon any other monetary judgment. No such proceeding of any nature,  
 35 however, shall be brought or had for the recovery of such a penalty or costs due the Commonwealth or any  
 36 political subdivision thereof, unless within ~~60~~ 10 years from the date of the offense or delinquency giving rise  
 37 to imposition of such penalty if imposed by a circuit court or within 30 years if imposed by a general district  
 38 court judgment.

39 *B. Notwithstanding any other provision of law, upon the expiration of the period of limitations provided*  
 40 *by subsection A, no action shall be brought to collect the debt.*

41 *C. The period of limitations provided in subsection A shall apply regardless of the method of collection*  
 42 *applicable pursuant to § 19.2-349 and shall not be extended or revived on account of a partial payment, a*  
 43 *written or verbal affirmation of the debt, or a change in collection method. Upon the expiration of the period*  
 44 *of limitations, it shall not be revived or restarted by any means.*

45 **§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys**  
46 **for Commonwealth; duties of Department of Taxation.**

47 A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his  
 48 court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of  
 49 his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than  
 50 ~~90~~ 180 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state  
 51 law or a local ordinance which remain unsatisfied, including those which are delinquent in installment  
 52 payments. The monthly report shall include the social security number or driver's license number of the  
 53 defendant, if known, and such other information as the Department of Taxation and the Compensation Board  
 54 deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of  
 55 those clerks who participate in the Supreme Court's automated information system.

56 B. The clerk of the circuit court and district court of every county and city shall submit quarterly to the

57 attorney for the Commonwealth of his county or city and any probation agency that serves such county or  
58 city:

59 1. A list of all defendants with an outstanding balance of restitution ordered by the court served by such  
60 clerk. Such report shall include the defendant's name, case number, total amount of restitution ordered,  
61 amount of restitution remaining due, and last date of payment; and

62 2. A list of all accounts where more than ~~90~~ 180 days have passed since an account was sent to collections  
63 and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For accounts where  
64 restitution is owed, such report shall include the defendant's name, case number, and total amount of  
65 restitution and restitution interest due.

66 C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted  
67 for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the  
68 Commonwealth shall determine whether it would be impractical or uneconomical for such service to be  
69 rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an  
70 installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may  
71 agree to a process by which collection activity may be commenced ~~90~~ 180 days after judgment.  
72 *Notwithstanding any other provision of law, no collection activity, including referral to a private collection*  
73 *agency, local treasurer, or the Department of Taxation, shall be commenced for any fines, costs, forfeitures,*  
74 *or penalties while a defendant is incarcerated for an active term of imprisonment and subject to a deferred*  
75 *payment agreement entered pursuant to subsection F of § 19.2-354.*

76 If the attorney for the Commonwealth does not undertake collection, he shall (i) contract with private  
77 attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter  
78 into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation,  
79 upon such terms and conditions as may be established by guidelines promulgated by the Office of the  
80 Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the  
81 Compensation Board. At least 30 days prior to the execution of a contract pursuant to clause (i), the attorney  
82 for the Commonwealth shall consult with the clerk of the circuit court. Such consultation is not required  
83 when the attorney for the Commonwealth enters into an agreement pursuant to clause (ii), (iii), or (iv). If the  
84 attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the  
85 Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between  
86 attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts  
87 are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access  
88 to the social security number of the defendant in order to assist in the collection effort. Any such private  
89 attorney shall be subject to the penalties and provisions of § 18.2-186.3.

90 The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the  
91 proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a  
92 fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et  
93 seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the  
94 Commonwealth may collect the administrative fee authorized by § 58.1-3958.

95 D. The Department of Taxation and the State Compensation Board shall be responsible for the collection  
96 of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing  
97 such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall  
98 be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State  
99 Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the  
100 Commonwealth, other state agencies and any private attorneys or collection agents and may employ private  
101 attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of  
102 Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for  
103 violations of local ordinances.

104 The Department of Taxation and the State Compensation Board shall annually report to the Governor and  
105 the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and  
106 those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court.  
107 The report shall include the procedures established by the Department of Taxation and the State  
108 Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs,  
109 forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive  
110 Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys  
111 for the Commonwealth and other state agencies to the procedures established by the Department of Taxation  
112 and the State Compensation Board.

113 The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor, the  
114 General Assembly, the Chairmen of the House and Senate Committees for Courts of Justice, and the Virginia  
115 State Crime Commission on the total of restitution assessed, collected, and unpaid for each circuit and district  
116 court and the total of restitution collected and deposited into the Criminal Injuries Compensation Fund  
117 pursuant to subsection I of § 19.2-305.1 by each circuit and district court.

118 E. The provisions of this section shall not apply to any orders of restitution docketed in the name of the

119 victim or when it is ordered that an assignment of the judgment for restitution to the victim be docketed.  
 120 **§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties, or restitution in**  
 121 **installments or upon other terms and conditions; community work in lieu of payment.**

122 A. Any defendant convicted of a traffic infraction or a violation of any criminal law of the  
 123 Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, who is  
 124 sentenced to pay a fine, restitution, forfeiture, or penalty may pay such fine, restitution, forfeiture, or penalty  
 125 and any costs that the defendant may be required to pay in deferred payments or installments. The court  
 126 assessing the fine, restitution, forfeiture, or penalty and costs shall authorize the clerk to establish and  
 127 approve individual deferred or installment payment agreements. If the defendant owes court-ordered  
 128 restitution and enters into a deferred or installment payment agreement, any moneys collected pursuant to  
 129 such agreement shall be used first to satisfy such restitution order and any collection costs associated with  
 130 restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed, unless an order for  
 131 restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the  
 132 victim be docketed. Any payment agreement authorized under this section shall be consistent with the  
 133 provisions of § 19.2-354.1. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and  
 134 on the court's website, if a website is available. As a condition of every such agreement, a defendant who  
 135 enters into an installment or deferred payment agreement shall promptly inform the court of any change of  
 136 mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days  
 137 of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the  
 138 defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs  
 139 are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or  
 140 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant  
 141 participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full  
 142 by the date ordered, shall proceed in accordance with § 19.2-358.

143 B. When a person sentenced to the Department of Corrections or a local correctional facility owes any  
 144 fines, costs, forfeitures, restitution, or penalties, he shall be required as a condition of participating in any  
 145 work release, home/electronic incarceration, or nonconsecutive days program as set forth in § 53.1-60,  
 146 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his  
 147 installment or deferred payment agreement while participating in such program. If, after the person has an  
 148 installment or deferred payment agreement, the person fails to pay as ordered, his participation in the  
 149 program may be terminated until all fines, costs, forfeitures, restitution, and penalties are satisfied. The  
 150 Director of the Department of Corrections and any sheriff or other administrative head of any local  
 151 correctional facility shall withhold such ordered payments from any amounts due to such person, *including*  
 152 *amounts assessed but not yet due under a deferred payment agreement established pursuant to subsection F.*  
 153 Distribution of the moneys collected shall be made in the following order of priority to:

- 154 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be
- 155 disbursed according to the terms of such order;
- 156 2. Pay any restitution as ordered by the court;
- 157 3. Pay any fines or costs as ordered by the court;
- 158 4. Pay travel and other such expenses made necessary by his work release employment or participation in
- 159 an education or rehabilitative program, including the sums specified in § 53.1-150; and
- 160 5. Defray the offender's keep.

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

163 The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of wages  
 164 paid to persons sentenced to local correctional facilities participating in such programs, the withholding of  
 165 payments, and the disbursement of appropriate funds. The Director of the Department of Corrections shall  
 166 prescribe rules governing the receipt of wages paid to persons sentenced to state correctional facilities  
 167 participating in such programs, the withholding of payments, and the disbursement of appropriate funds.

168 C. The court shall establish a program and may provide an option to any person upon whom a fine and  
 169 costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of  
 170 community service work (i) before or after imprisonment or (ii) in accordance with the provisions of  
 171 § 19.2-316.4, 53.1-59, 53.1-60, 53.1-128, 53.1-129, or 53.1-131 during imprisonment. The program shall  
 172 specify the rate at which credits are earned and provide for the manner of applying earned credits against the  
 173 fine or costs. The court assessing the fine or costs against a person shall inform such person of the availability  
 174 of earning credit toward discharge of the fine or costs through the performance of community service work  
 175 under this program and provide such person with written notice of terms and conditions of this program. The  
 176 court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

177 D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to  
 178 the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358.

179 E. The failure of the defendant to enter into a deferred payment or installment payment agreement with  
 180 the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax

181 Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures, and penalties.

182 *F. For any defendant sentenced to an active term of incarceration and ordered to pay any fine, cost,*  
183 *forfeiture, or penalty related to the charge that such defendant is incarcerated for, or any other charge for*  
184 *which such defendant was sentenced on the same day, the court shall enter such defendant into a deferred*  
185 *payment agreement, as defined in § 19.2-354.1, for such fines, costs, forfeitures, or penalties. The due date*  
186 *for such deferred payment agreement shall be set no earlier than 180 days after the defendant's scheduled*  
187 *release from incarceration on the charges for which such defendant was sentenced on the same day.*  
188 *Notwithstanding any other provisions of law, the period of limitations provided by § 19.2-341 for payment of*  
189 *such fines, costs, forfeitures, or penalties shall start to run on the due date for such deferred payment*  
190 *agreement.*

191 **2. That the provisions of this act shall become effective on January 1, 2027.**