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# VIRGINIA STATE BUDGET

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2018 Special Session I

## Budget Bill - HB5002 (Enrolled)

Bill Order » Judicial Department » Item 40

Circuit Courts

| Item 40  | First Year - FY2019  | Second Year - FY2020 |
|--|----------------------|----------------------|
| <b>Pre-Trial, Trial, and Appellate Processes (32100)</b> | <b>\$113,976,455</b> | <b>\$117,024,675</b> |
| Trial Processes (32103)                                  | \$49,546,226         | \$52,434,446         |
| Other Court Costs And Allowances (Criminal Fund) (32104) | \$64,430,229         | \$64,590,229         |
| Fund Sources:  |                      |                      |
| General  | \$113,971,455        | \$117,019,675        |
| Special  | \$5,000              | \$5,000              |

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Authority: Article VI, Section 1, Constitution of Virginia; Title 17.1, Chapter 5; § [19.2-163](#), Code of Virginia.

A. Out of the amounts in this Item for Trial Processes shall be paid:

1. The annual salaries of Circuit Court judges, each at \$171,120 from July 1, 2018, to November 24, 2018, \$171,120 from November 25, 2018, to November 24, 2019, and \$171,120 from November 25, 2019, to June 30, 2020. Such salaries shall represent the total compensation from all sources for Circuit Court judges.
2. Expenses necessarily incurred for the position of judge of the Circuit Court, including clerk hire not exceeding \$1,500 a year for each judge.
3. The state's share of expenses incident to the prosecution of a petition for a writ of habeas corpus by an indigent petitioner, including payment of counsel fees as fixed by the Court; the expenses shall be paid upon receipt of an appropriate order from a Circuit Court.
4. A circuit court judge shall only be reimbursed for mileage for commuting if the judge has to travel to a courthouse in a county or city other than the one in which the judge resides and the distance between the judge's residence and the courthouse is greater than 25 miles.

B. The Chief Circuit Court Judge shall restrict the appointment of special justices to conduct involuntary mental commitment hearings to those unusual instances when no General District Court or Juvenile and Domestic Relations District Court Judge can be made available or when the volume of the hearings would require more than eight hours a week.

C. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2018, in the appropriation made in Item 42, Chapter 836, Acts of Assembly of 2017, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2019.

D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § [8.01-384.1:1](#), Code of Virginia.

E.1. General fund appropriations for Other Court Costs and Allowances (Criminal Fund) total \$ 124,384,073 the first year and \$ 124,384,073 the second year in this Item and Items 35, 39, 41, 42 and 43.

2. The Chief Justice of the Supreme Court of Virginia shall determine how the amounts appropriated to Other Courts Costs and Allowances (Criminal Fund) will be allocated, consistent with statutory provisions in the Code of Virginia. Funds within these appropriations are to be used to fund fully the statutory caps on compensation applicable to attorneys appointed by the court to defend criminal charges. Should this appropriation not be sufficient to fund fully all of the statutory caps on compensation as established by § 19.2-163, Code of Virginia, that this appropriation shall be applied first to fully fund the statutory caps for the most serious noncapital felonies and then, should funds still remain in this appropriation, to the other statutory caps, in declining order of the severity of the charges to which each cap is applicable.

3. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$880,000 the first year and not to exceed \$880,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission, for the administration of the physical evidence recovery kit (PERK) program.

4. Notwithstanding the provisions of § 19.2-163, Code of Virginia, the amount of compensation allowed to counsel appointed by the court to defend a felony charge that may be punishable by death shall be calculated on an hourly basis at a rate set by the Supreme Court of Virginia.

F.1. For any hearing conducted pursuant to § 19.2-306, Code of Virginia, the circuit court shall have presented to it a sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing Commission indicating the condition or conditions of the suspended sentence, good behavior, or probation supervision that the defendant has allegedly violated.

2. For any hearing conducted pursuant to § 19.2-306 in which the defendant is cited for violation of a condition or conditions other than a new criminal offense conviction, the court shall also have presented to it the applicable probation violation guideline worksheets established pursuant to Chapter 1042 of the Acts of Assembly 2003. The court shall review and consider the suitability of the discretionary probation violation guidelines. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In hearings in which the court imposes a sentence that is either greater or less than that indicated by the discretionary probation violation guidelines, the court shall file with the record of the case a written explanation of such departure.

3. Following any hearing conducted pursuant to § 19.2-306 and the entry of a final order, the clerk of the circuit court in which the hearing was held shall cause a copy of such order or orders, the original sentencing revocation report, any applicable probation violation guideline worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection F.2., to be forwarded to the Virginia Criminal Sentencing Commission within 30 days.

4. The failure to follow any or all of the provisions specified in F.1. through F.3 or the failure to follow any or all of these provisions in the prescribed manner shall not be reviewable on appeal or the basis of any other post-hearing relief.

G. Mandated changes or improvements to court facilities pursuant to § 15.2-1643, Code of Virginia, or otherwise, including any new construction, shall be delayed at the request of the local governing body in which the court is located until June 30, 2020. The provisions of this item shall not apply to facilities that were subject to litigation on or before November 30, 2008.

H. In order to reduce expenditures through the Criminal Fund for court-appointed counsel, effective July 1, 2014, compensation paid to attorneys appointed pursuant to Virginia Code § 53.1-40 shall be limited to \$55 per hour,

with a maximum per diem compensation of \$200, plus reasonable expenses, to be paid from the Criminal Fund.

I.1. Notwithstanding the provisions of § 19.2-155, Code of Virginia, in cases where an Attorney for the Commonwealth must recuse himself from a case or a special prosecutor must be appointed, the circuit court judge must appoint an Attorney for the Commonwealth or an Assistant Attorney for the Commonwealth from another jurisdiction. If the circuit court judge determines that the appointment of such Attorney for the Commonwealth or such Assistant Attorney for the Commonwealth is not appropriate or that such an attorney or assistant is unavailable then the judge must request approval from the Executive Secretary of the Supreme Court for an exception to this requirement.

2. The Executive Secretary of the Supreme Court shall include in the annual report required in paragraph A. of Item 38 information on the number of exceptions granted related to special prosecutors and the related expenditures.

J. Notwithstanding any other provisions of Chapter 23 of Title 8.1 of the Code of Virginia, a reasonable fee not to exceed \$150 may be charged by Commissioners of Accounts for any foreclosures on a timeshare estate to reimburse them for the reasonable costs associated therewith.

K. Sufficient funding is provided in the second year appropriation for this item to fill all circuit court judgeships authorized pursuant to § 17.1-507, Code of Virginia, as of July 1, 2019.