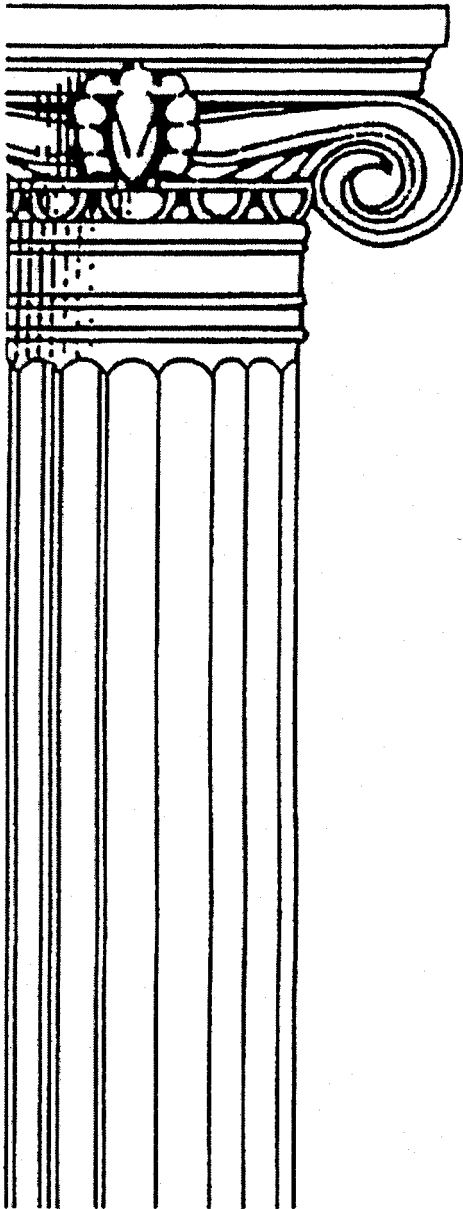


Supreme Court of Virginia

# CHART OF ALLOWANCES

*July 1, 2010*



Supreme Court of Virginia  
Office of the Executive Secretary  
Department of Fiscal Services  
804/786-6455  
[www.courts.state.va.us](http://www.courts.state.va.us)

## **Policy Requiring the Timely Submission of Vouchers and Payment Requests**

All requests for payment of fees or for travel or other expenses must be submitted no later than thirty (30) days after the service or the travel is completed or, in the case of court-appointed counsel, within thirty (30) days of the completion of all proceedings in the court for which the request is being submitted. See Va. Code § 19.2-163. If any request(s) for payment is submitted more than thirty (30) days after the service or the travel is completed; or in the case of court-appointed counsel, more than thirty (30) days after the completion of all proceedings in the court for which the request is being submitted, then the Office of the Executive Secretary may require a written explanation of the delay and such additional documentation as the Executive Secretary determines is appropriate. Any request(s) for payment submitted to the Court or, if appropriate, the Office of the Executive Secretary more than twenty-four (24) months after the service or the travel is completed; or in the case of court-appointed counsel, more than twenty-four (24) months after the completion of all proceedings in the court for which the request is being submitted, shall be denied. This Policy applies to all requests for payment submitted to the Office of the Executive Secretary of the Supreme Court of Virginia, including, but not limited to, requests for payment submitted by special justices, guardians *ad litem*, interpreters, mediators, court-appointed counsel, court-appointed experts, substitute judges, retired judges and others.

Code Section	Description	Per Diem	Statutory Limit
8.01-9	Guardian ad litem for defendant under a disability in a civil action.		
	<p><b>Note:</b> Payment out of the criminal fund of fees and expenses of a guardian ad litem for a defendant under a disability in a civil action is authorized only in certain situations, specifically when:</p>		
	<p>(1) in a civil action against an incarcerated felon for divorce where the felon is incarcerated as a result of a crime committed against the felon's spouse, child, or stepchild and involving physical injury, sexual assault, or sexual abuse (as set forth in the statute);</p> <p>(2) in a civil action against an incarcerated felon for damages arising out of a criminal act (as set forth in the statute); or</p> <p>(3) a court in a divorce action has made specific findings that both the plaintiff and the defendant are indigent and that the defendant is a person under a disability as defined in § 8.01-2, and based upon those findings, the court has determined that payment of the guardian ad litem out of the criminal fund is required as a matter of law. <b>Court order indicating that plaintiff and defendant are both indigent and that defendant is a person under a disability is required.</b></p>		
	<p>(Guidelines established by the Supreme Court of Virginia are \$75/hr in court and \$55/hr out of court.)</p>		
8.01-384.1	Interpreters for the speech-impaired or hearing-impaired in Civil proceedings		
	<p><b>Note:</b> Certified interpreters under contract with the Department for the Deaf and Hard-of-Hearing who provide services to any Virginia state court must submit the required paperwork directly to the Department. <b>DO NOT SUBMIT ON FORM DC-40. DEPARTMENT OF DEAF AND HARD-OF-HEARING WILL SUBMIT.</b></p>		

<b>Code Section</b>	<b>Description</b>	<b>Per Diem</b>	<b>Statutory Limit</b>
8.01-384.1:1	Interpreters for non-English-speaking persons in Civil Cases.  Submit Form DC-44 List of Allowances-Interpreter		
16.1-241 (V)	Counsel petition for judicial authorization for abortion  Guardian ad litem petition for judicial authorization for abortion (Guidelines established by Supreme Court of Virginia are \$75/hr in court and \$55/hr out of court for guardian ad litem.)		\$120.00
16.1-267	Court-appointed attorney J&DR  Guardian ad litem J&DR (Guidelines established by Supreme Court of Virginia are \$75/hr in court and \$55/hr out of court for guardian ad litem.)  See attached court-appointed counsel fee cap waiver information and instruction		\$120.00
16.1-276	Out-of-state witness - compensation of travel expenses		.50/mile

Code Section	Description	Per Diem	Statutory Limit
16.1-299.1	Blood sample required for DNA analysis upon conviction or adjudication of felony (Juvenile).  <b>Note:</b> A juvenile convicted of a felony or adjudicated delinquent on the basis of an act which would be a felony if committed by an adult shall have a sample of his blood taken for DNA analysis provided the juvenile was fourteen years of age or older at the time of the commission of the offense.  The Criminal Fund will reimburse only when:  (1) The defendant has been convicted of a felony or adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, but was not sentenced to a period of confinement (e.g., was placed on probation or on suspended execution of sentence or  (2) The convicted juvenile was remanded to the custody of the sheriff solely for the purpose of blood withdrawal, but the sheriff does not have the resources available, contracted or on staff, and must secure the services of a private provider to conduct the withdrawal.  Form DC-40 <u>must be accompanied by Form CC-1390.</u>		
16.1-361	Compensation Of Experts - J&DR Competency Court appearance - Witness Fee, Mileage  (1) Competency to Stand Trial (Guidelines established by the Supreme Court of Virginia)  (2) Court Appearance - Witness Fee (plus mileage at .50/mile)		\$400.00  \$100.00
17.1-611	Witness for the Commonwealth  <b>Mileage and Tolls Only</b>		.50/mile
17.1-612	Expert Witness <b>Court order and itemized invoice required</b>		
17.1-618	Juror per diem (Includes travel expenses) (Use Form DC-43)	\$30.00	
18.2-62	Testing of certain persons for human immunodeficiency virus (HIV) or hepatitis B or C viruses		

Code Section	Description	Per Diem	Statutory Limit
18.2-252	Suspended sentence conditioned upon substance abuse screening and testing		
18.2-254	Commitment of convicted person for treatment for drug or alcohol abuse (substance abuse screening and testing)		
18.2-268.8	DUI – Withdrawal of blood by Commonwealth or local office		\$25.00
18.2-346.1	Testing of persons convicted of prostitution or certain drug offenses for human immunodeficiency viruses (HIV) and hepatitis C		
19.2-70.2	Pen register or trap and trace device (expenses of providing facilities and assistance)		
19.2-112	Extradition allowance expenses <b>(Must be filed on a Travel Expense Reimbursement Voucher)</b>		
19.2-155	Appointment of substitute for Commonwealth Attorney  Use §19.2-332 as the authorizing Code Section from the Chart of Allowance on Form DC-40. Attach copy of appointment order. The Supreme Court of Virginia guidelines established for this purpose are \$90/hr in court and \$90/hr out of court.		

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19.2-163	Court-appointed attorney:	
	District Court*	\$120.00
	District Court - preliminary hearing capital charge	Set by Court**
	Circuit Court - capital charge	Set by Court**
	Circuit Court - felony punishable by more than 20 years	\$1,235.00
	Circuit Court - all other felonies	\$445.00
	Circuit Court - misdemeanor punishable by confinement in jail	\$158.00

See attached court-appointed counsel fee cap waiver information and instruction

**Note:**

- (1) \*If felony charge for adult in juvenile court or general district court is disposed of in the district court, then circuit court felony rates apply. Felony class must be indicated.
  - (2) For revocation of probation - indicate §19.2-306 as the original code section charged; note either felony or misdemeanor and the highest class of the original charges. Payment is allowed on the basis of only one charge. For example, if a defendant who is on probation for 5 charges were subject to a probation revocation proceeding, the court-appointed attorney would be reimbursed for only 1 charge --- the probation revocation. The fee cap in this example would be determined based on the highest fee cap of the original five charges.
  - (3) Guardian ad litem or Juvenile Appeal must be indicated. (Guidelines established by the Supreme Court of Virginia are \$75/hr in court and \$55/hr out of court for guardian ad litem and \$90/hr in court and \$90/hr out of court for court-appointed counsel.)
  - (4) Authorization for payment out of the criminal fund of a guardian ad litem appointed in a circuit court is limited to an appeal from J&DR court and appointment of the guardian ad litem under §16.1-266.
  - (5) Payment for psychological evaluations and drug testing in custody matters pursuant to §16.1-278.15 is not authorized.
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19.2-163  
(continued) (6) Counsel representing a defendant charged with a Class 1 felony (capital murder) or counsel representing an indigent prisoner under sentence of death in a state habeas corpus proceeding, may submit to the court on a monthly basis, a statement of all costs incurred and fees charged by him in the case during that month. Whenever the total charges are deemed reasonable by the court for which payment has not previously been made or requested exceed \$1,000, the court may direct that payment be made. Completed District Court Form DC-334 (Request for Appointment of a Lawyer) indicating "Capital Murder" or Circuit Court Order must be attached when submitting voucher for reimbursement.

**\*\*The Supreme Court of Virginia has established separate hourly rate guidelines for capital cases not to exceed \$200 per hour in court and \$150 per hour out of court.**

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19.2-164 Interpreters for non-English speaking persons in criminal cases  
Submit Form DC-44 List of Allowances-Interpreter

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19.2-164.1 Interpreters for speech impaired or hearing impaired in criminal cases  
**Note:** Certified interpreters under contract with the Department for the Deaf and Hard-of-Hearing who provide services to any Virginia state court must submit the required paperwork directly to the Department. **DO NOT SUBMIT ON FORM DC-40. DEPARTMENT OF DEAF AND HARD-OF-HEARING WILL SUBMIT.**

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19.2-165.1 Medical fees for gathering evidence  
Request for reimbursement for sexual assault-related PERK or forensic examinations should be submitted to the Criminal Injuries Compensation Fund Payment Coordinator (P O Box 26927 Richmond VA 23261)  
Request for reimbursement for forensic examinations for any other purpose should be submitted by the Commonwealth's Attorney or designated victim/witness coordinator to the Supreme Court of Virginia.

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19.2-166 Court reporters  
(Invoice required for any amount over \$500 for one defendant)

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19.2-175	Compensation of Experts	
	(1) Competency to Stand Trial	\$400.00
	(2) Mental Status at the Time of Offense (MSO)	\$500.00
	(3) Mental Status at the Time of the Offense and Competency to Stand Trial	\$750.00
	(4) Pre-sentence Evaluation	\$400.00
	(5) Court Appearance - Witness fee (plus mileage at .50/mile)	\$100/day
	<p><b>Note:</b> Except in capital murder cases, the fees listed above are maximum amount allowed for each evaluation (guidelines established by the Supreme Court of Virginia). Form DC-40 MUST identify the service rendered by using the above description or item number.</p>	
19.2-182	Attorney fee in proceeding for commitment (criminal)	\$25.00
19.2-211	Counsel for special grand jury	
19.2-215	Costs of special grand jury (services provided)	
	<p><b>Note:</b> Pursuant to §19.2-205, costs for grand juror per diem and mileage shall be paid from local funds.</p>	
19.2-269.1	Services of sheriff for appearance of inmate as witness (circuit court only)	
19.2-301	Mental Examination - Sexual Abnormality (Guidelines established by the Supreme Court of Virginia)	\$600.00
19.2-310.2	DNA analysis (blood withdrawal) <b>Form CC-1390 required</b>	
	<p>(1) The defendant has been convicted of a felony or adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, but was not sentenced to a period of confinement (e.g., was placed on probation or on suspended execution of sentence) or</p> <p>(2) The convicted juvenile was remanded to the custody of the sheriff who does <u>not</u> have the resources available, contracted or on staff, and must have the withdrawal conducted by an outside private source.</p>	

19.2-326	Indigent appeals attorney fee and expenses of appellate court filing <b>Note:</b> Appellate court order required for all appeal-related fees and expenses, including printing or briefs. Bills for printing of briefs must be submitted by court-appointed counsel.	Set by Appellate Court
19.2-327.1	Court-appointed attorney-Scientific investigation of human biological evidence	
19.2-330	Out-of-state witness-compensation of travel expenses	.50/mile
19.2-332	Miscellaneous compensable, services not otherwise specified (also covers injuries prior to booking)	
19.2-386.12B	Sale of forfeited property (actual expenses in excess of sale of proceeds)	
20-49.3	Blood tests for paternity - HLA blood test (indigent party) <b>(SUPPORT CASES INVOLVING DIVISION OF CHILD SUPPORT ENFORCEMENT (DCSE) NOT PAID BY CRIMINAL FUND - CONTACT DCSE)</b>	
20-115	Commitment and sentence for failure to comply with order or decree (payment for court-appointed counsel authorized pursuant to §19.2-163) Juvenile Court Circuit Court	\$120.00 \$158.00
20-124.4	Mediation (Form DC-604 required with Form DC-40)	\$100.00 Per Appointment
32.1-48.03	Court-appointed counsel fee for isolation hearing upon petition in general district court; temporary detention (plus necessary expenses)	\$75.00
32.1-48.04	Court-appointed counsel fee for isolation hearing upon appeal to circuit court (plus necessary expenses)	\$150.00
37.2-906	Sexually Violent Predator - Court-appointed attorney The Supreme Court of Virginia guidelines established for this purpose are \$90/hr in court and \$90/hr out of court, up to a maximum cap of \$5,000.	

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37.2-907 Sexually Violent Predator - Appointment of Experts  
Statutory cap for evaluation is \$5,000; but pursuant to statutory direction, a guideline of \$2,500 has been established for a typical evaluation.  
  
This amount does not include daily fee for appearance as witness (\$750) or allowance for mileage (.50/mile).  
  
Daily fee for required appearance in court as witness. \$750.00

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37.2-1008 Guardians and Conservators (fees and costs)  
  
(Guidelines established by the Supreme Court of Virginia are \$75/hr in court and \$55/hr out of court for guardian ad litem.)  
**Court order indicating incapacitated person is indigent required.**

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46.2-301.1 Administrative impoundment of motor vehicle  
  
There are three situations in which there is a statutory authorization for reimbursement by the Commonwealth of Virginia. No reimbursement from the Criminal Fund will be made unless Form DC-40 has been submitted with the following supporting documentation:

- (1) A bill from the storage company or a receipt from the person who incurred the cost of impoundment, and
- (2) Either a copy of the court order, Form DC-499, with the block checked: "No probable cause for arrest or warrant" or else a copy of the underlying charge reflecting the dismissal of the charge, a reduced charge or an acquittal.
- (3) Indication that a lien holder repossesses or removes vehicle from storage pursuant to security agreement.

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46.2-1209 Unattended or immobile vehicle (daily towing, storage and recovery fees when identity of violator unknown or no violation)

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53.1-40 Court-appointed attorney for consultation with indigent prisoners  
**(Guidelines established \$90/hr)**  
  
Number of inmates consulted must be attached.

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53.1-165 Revocation of parole, or post release supervision of felon

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53.1-205	Felonies by prisoners
53.1-210	<p>Agreement on Detainer and transportation of an out- of-state witness who is a prisoner in another state.</p> <p><b>(Original receipts required. Form VI or other authority from the Attorney General or court order required.)</b></p>
63.2-1609	<p>Guardian ad litem - Emergency order for protective services – indigent adult only</p> <p>(Guidelines established by the Supreme Court of Virginia are \$75 in court \$55/hr out of court for guardian ad litem.)</p>
Appropriation Act	<p>Habeas Corpus</p> <p>All expenses must be itemized. Number of miles traveled must be specified. Receipts required where applicable.</p>

*General Information and Instructions*

The General Assembly amended § 19.2-163 of the Code of Virginia in 2007 to provide the following fees for court-appointed counsel:

<b>Court</b>	<b>Charge</b>	<b>Statutory Fee</b>	<b>Supplemental Statutory Waiver Amount</b>	<b>Fee for Additional Waiver</b>
District	Misdemeanor	\$120	Up to \$120	Discretion of Court
Juvenile and Domestic Relations District	Delinquency – Equivalent to Misdemeanor or Felony, Class III to VI	\$120	Up to \$120	Discretion of Court
Juvenile and Domestic Relations District	Delinquency – Equivalent to Felony, Class II, or Probation Violation for Felony, Class II	\$120	Up to \$650	Discretion of Court
District	Felony, Class III to VI resolved in District Court	\$445	Up to \$155	Discretion of Court
District	Felony, Class II, resolved in District Court	\$1,235	Up to \$850	Discretion of Court
Circuit	Misdemeanor	\$158	Not Available	Discretion of Court
Circuit	Delinquency	\$158	Not Available	Discretion of Court
Circuit	Felony, Class III to VI	\$445	Up to \$155	Discretion of Court
Circuit	Felony, Class II	\$1,235	Up to \$850	Discretion of Court

**Fee waivers may only be awarded by the court in which the case is concluded.**

**The General Assembly has authorized the above schedule for compensation for court-appointed counsel. Upon submission by counsel of a detailed accounting of time expended for court-appointed representation, the court in its discretion and subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia may waive the limitation of fees and authorize additional compensation up to the supplemental statutory waiver amount when the effort expended by counsel, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver.**

**Counsel may also request additional compensation exceeding these amounts by submitting a written request with a detailed accounting of the time spent and justification for the additional amount. The presiding judge shall determine, subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether this request for additional compensation above the supplemental statutory waiver amount is justified, in whole or part, by considering the effort expended and time reasonably necessary for the particular representation, and, if so, shall forward the request as approved to the chief judge of the circuit court or district court for approval.**

There is no appeal process available if an application for waiver of fee caps is denied.

**Additionally, if at any time the funds appropriated to pay for waivers become insufficient,**

**the Executive Secretary of the Supreme Court of Virginia shall so certify to the courts and no further waivers shall be approved.**