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## COMMONWEALTH OF VIRGINIA

### *Compensation Board*

P.O. Box 710  
Richmond, Virginia 23218-0710

July 2, 2020

#### MEMORANDUM

TO: Commonwealth's Attorneys

FROM: Robyn M. de Socio, Executive Secretary

RE: FY20/21 Fines and Fees Reporting Process

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The Code of Virginia, §19.2-349, requires the Department of Taxation and the Compensation Board to annually report to the Governor and the General Assembly the total of fines, costs, forfeitures, penalties and restitution assessed, collected, and unpaid and those which remain unsatisfied. Additionally, Commonwealth's Attorneys must complete a signed policy statement each year, and identify each year their elected collection method for delinquent accounts.

With this correspondence, the Compensation Board is seeking your submission of:

1. a signed FY21 Policy Statement **(due July 24, 2020)**;
2. a signed FY21 Election for Collection Method of Fines and Fees form **(due July 24, 2020)**;
3. a signed and completed FY20 Collection of Fines and Fees Form, which is the reporting format for assessment and collections data for delinquent court fines and costs during FY20 **(due August 21, 2020)**, and;
4. a collection agent's report describing their collection efforts in FY20 **(due September 11, 2020)**.

**Guidelines and Form for Contracts.** Please note that contracts for FY21 between Commonwealth's Attorneys and Treasurers currently collecting on a contingency fee basis are required to utilize the Form for Contracts dated no earlier than July 1, 2016, in order to comply with legislative action and current Guidelines.

The FY21 Policy Statement and the FY21 Election Form are **due by July 24, 2020**. Any future changes to collection agent and/or initiation of a new contract during the year must also include the sending of a new Election Form to the entities noted on the Form.

**Commonwealth's Attorneys utilizing collection agents.** This correspondence is copied to collection agents. The Compensation Board recommends that collection agents forward to the Commonwealth's Attorney the FY20 Collection of Fines and Fees Form completed with information on the assessment and collection of delinquent fines and fees.

The FY20 Collection of Fines and Fees Form (July 1, 2019 to June 30, 2020) completed by you (in-house programs) or completed and forwarded to you from your collection agent are **due by August 21, 2020**. If you fail to submit the report of collections and assessments data, the Compensation Board's report to the General Assembly will indicate a "did not report/comply" status for your office.

**Collection agent's report describing their collection efforts.** Pursuant to the Guidelines for contracting, the contractor responsible for the collection of fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest is responsible at this time for filing with the Commonwealth's Attorney a report describing the collection efforts employed during FY20. Within 15 days of receipt of the report from the collection agent, the Commonwealth's Attorney is to file a copy of the report with the Compensation Board and each court included in the report. The Compensation Board is required to make this information available to the Executive Secretary of the Supreme Court and all Commonwealth's Attorneys for their evaluation and renegotiation of collection contracts pursuant to Code §19.2-349.

Collection agents should submit their report to the Commonwealth's Attorney **no later than September 3, 2020**. Commonwealth's Attorneys should review and send a copy of the received report to Mark Pellett at the Compensation Board in electronic format to [mark.pellett@scb.virginia.gov](mailto:mark.pellett@scb.virginia.gov) **no later than September 11, 2020**.

**All Commonwealth's Attorneys.** Please review the documents attached to this email and complete with your signature, date, printed name and locality:

1. FY21 Policy Statement for Fines and Fees: Commonwealth's Attorney;
2. FY21 Election for Collection Method of Fines and Fees: Commonwealth's Attorney;
3. FY20 Collection of Fines and Fees Form and Instructions (July 1, 2019 to June 30, 2020) completed by you (in-house programs) or completed and forwarded to you from your collection agent;
4. Master Guidelines and Model Form for Contract for the Collection of Unpaid Fines, Costs, Forfeitures, and Penalties by Private Contractors (dated July 1, 2020), and;
5. Code of Virginia, §19.2-349; §58.1-3958; Chapter 1289, 2020 Acts of Assembly, Item 72. Paragraph H.

**Please return the collection effort report and the three (3) completed forms to Mark Pellett not later than each respective deadline.** You may return the documents by fax at (804) 371-0235 or by email at [mark.pellett@scb.virginia.gov](mailto:mark.pellett@scb.virginia.gov). Fax cover sheets have been provided for your convenience.

If you have any questions or need additional information, please contact Mark Pellett at (804) 225-3414 or [mark.pellett@scb.virginia.gov](mailto:mark.pellett@scb.virginia.gov), Charlene Rollins at (804) 225-3321 or [charlene.rollins@scb.virginia.gov](mailto:charlene.rollins@scb.virginia.gov), or me at (804) 225-3439 or [robyn.desocio@scb.virginia.gov](mailto:robyn.desocio@scb.virginia.gov).

Thank you for your assistance.

cc: Charlene Rollins, Customer Service Manager  
Mark Pellett, Financial and Management Analyst  
Laurie Hicks, Office of the Auditor of Public Accounts  
Jane S. Chambers, Director, Commonwealth's Attorneys' Services Council  
Jeffrey W. Haislip, President, Virginia Association of Commonwealth's Attorneys  
Kathy Lohr, Department of Taxation  
Karl Hade, Supreme Court of Virginia  
Treasurer, Arlington County  
Treasurer, Fauquier County  
Treasurer, Loudoun County  
Treasurer, Stafford County  
Treasurer, City of Falls Church  
Treasurer, City of Hampton  
Treasurer, City of Virginia Beach  
Ballato Law Firm  
David S. Hudson  
Fines Management, LTD  
Glasser and Glasser  
Newsome Law Office  
Parrish and Lebar  
Poole Brooke Plumlee PC  
Quadros and Associates  
Taxing Authority Consulting Services, PC  
Godwin, Jones and Price

# FAX

## FY20/21 Fines and Fees

<b>Date:</b>	_____
<b>To:</b>	<b>Mark Pellett</b> Compensation Board 102 Governor Street Suite 120 Richmond, VA 23219
<b>Phone:</b>	(804) 225-3414
<b>FAX:</b>	<b>(804) 371-0235</b>
<b>Number of Pages:</b>	<input type="text"/> Including Cover sheet

<b>From:</b>	<b>Commonwealth's Attorney</b>
<b>Name:</b>	_____
<b>Contact Name:</b>	_____
<b>Locality:</b>	_____
<b>Locality Code:</b>	_____
<b>Phone:</b>	_____
<b>FAX:</b>	_____

Contents of FAX includes the following completed, signed and dated form:

- FY20 Collection of Fines and Fees Form: Report by the Commonwealth's Attorney for July 1, 2019 - June 30, 2020 (due no later than August 21, 2020)

Please provide Contact Name and Phone Number in the office of the Commonwealth's Attorney for questions regarding these forms.

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# FY20 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2019 through June 30, 2020

Commonwealth's Attorney for: \_\_\_\_\_ city/county    Locality Code: \_\_\_\_\_    Page 1 of 2

COURT	<b>Column A</b> <b>Assessments</b> of delinquent fines, costs, forfeitures, penalties and interest sent for collections. (Excluding Restitution)	<b>Column B</b> Deleted or removed accounts	<b>Column C</b> PAID accounts as reported by Department of Taxation's Debt Set-Off Program	<b>Column D</b> <b>Assessments of Restitution</b> sent for collections.	<b>Column E</b> <b>Net Assessments</b>  (A - B - C + D = E)
Circuit	\$	\$	\$	\$	\$
General District	\$	\$	\$	\$	\$
J & DR	\$	\$	\$	\$	\$
Combined	\$	\$	\$	\$	\$
Totals	\$	\$	\$	\$	\$

*Based on information provided to me by the courts and my collection program, I certify that this report is a true and accurate statement of the total fines and costs collected and deposited by me or on my behalf for the period stated above.*

**Date:**

**Printed Name:**

**Signature:**

**\*FY20 Collection Agent:** (fill in at bottom-left of form on page 2)

- DEPARTMENT OF TAXATION   
  IN-HOUSE PROGRAM   
  CITY / COUNTY TREASURER  
 PRIVATE ATTORNEY (provide name)   
  PRIVATE COLLECTION AGENT (provide name)

**Collection Agent: Please complete form fully and accurately and provide to Commonwealth's Attorney;  
 Commonwealth's Attorney: Please provide printed name of officer and locality, sign and date form.**

**Fax completed and signed form to the attention of Mark Pellett, Compensation Board (804) 371-0235, not later than Friday, August 21, 2020.**

## FY20 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2019 through June 30, 2020

Please **TYPE** information on form. Fill out one form per locality (do not combine data for separate localities).

The Commonwealth's Attorney has discretion to delegate preparation of the fines and fees collection form to the collection agent or an employee of the office, but ultimately the Commonwealth's Attorney is responsible for the content of the form. The Auditor of Public Accounts reviews these forms on an annual basis; therefore, all information used to prepare the form should be kept available.

*For General District Court reporting, please combine separate divisions into one general district court amount and submit one form.*

**Column A:** Enter the total amount of **assessments** for delinquent fines, costs, forfeitures, penalties and interest during this reporting period (information available on the Supreme Court of Virginia's Financial Management System BR022 report entitled "Receivable Balances, Total Sent to Collections, and Collection Ratios", June 2020 report). Note that for FY20, the increase rate (intended to offset collections commission costs) applied to delinquent accounts prior to sending out for collection is included in the BR022 amount for YTD F/C/I sent to collections. Do not include any restitution amounts sent out for collection in this column.

**Column B:** Enter the amount of **accounts manually removed** by the Clerk of the Court. The Commonwealth's Attorney should approve amounts manually removed. Supporting documentation, including the reason for the removal, should be maintained for auditing purposes.

**Column C:** Enter the amount of **accounts reported as "paid"** by the Department of Taxation's Debt Set-Off program (provided by the Clerk of the Court).

**Column D:** Enter the total amount of **Restitution sent to Collections** during this reporting period (information available on the Supreme Court's Financial Management System BR022 June, 2020 report). Note that any increase rate applied to delinquent accounts prior to sending out for collection is **not** included in the BR022 amount. Note that any assessment of restitution interest is not included in the BR022 amount.

**Column E:** Enter the Subtotal. This subtotal represents **net assessments**. Column A minus Column B minus Column C plus Column D (A - B - C + D = E).

**Collection Agent: Please complete form fully and accurately and provide to Commonwealth's Attorney;  
Commonwealth's Attorney: Please provide printed name of officer and locality, sign and date form.**

**Fax completed and signed form to the attention of Mark Pellett, Compensation Board (804) 371-0235, not later than Friday, August 21, 2020.**

# FY20 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2019 through June 30, 2020

Commonwealth's Attorney for: \_\_\_\_\_ city/county      Locality Code: \_\_\_\_\_      Page 2 of 2

COURT	<b>Column F</b> <b>Collections</b> of delinquent fines, costs, forfeitures, penalties and interest during this period. <b>(Excluding Restitution)</b>	<b>Column G</b> <b>Collections of Restitution</b> during this period.	<b>Column H</b> <b>Collections Offset Amount</b> (increase rate) during this period.	<b>Column I</b> <b>Collection Fee</b> Must not exceed agreed collection fee %.	<b>Column J</b> <b>Net Collections</b>  <span style="color: red;">(F + G + H - I = J)</span>
Circuit	\$	\$	\$	\$	\$
General District	\$	\$	\$	\$	\$
J & DR	\$	\$	\$	\$	\$
Combined	\$	\$	\$	\$	\$
Totals	\$	\$	\$	\$	\$

COURT	FY20 Collection Agent Name*	<b><u>IN-HOUSE and CONTINGENCY</u></b> <b><u>TREASURER Collections ONLY</u></b>	
Circuit		Total from Column I above	\$
General District		Less: Expenses for collection efforts	\$
J & DR		Surplus (deficit)	\$
Combined		Locality / State Split of Surplus	\$

**Collection Agent: Please complete form fully and accurately and provide to Commonwealth's Attorney;**  
**Commonwealth's Attorney: Please provide printed name of officer and locality, sign and date form.**

**Fax completed and signed form to the attention of Mark Pellett, Compensation Board (804) 371-0235, not later than Friday, August 21, 2020.**

## FY20 Collection of Fines and Fees Form

Pursuant to § 19.2-349, Code of Virginia, Commonwealth's Attorney's Report to the Compensation Board for July 1, 2019 through June 30, 2020

Please **TYPE** information on form. Fill out one form **per locality** (do not combine data for separate localities).

The Commonwealth's Attorney has discretion to delegate preparation of the fines and fees collection form to the collection agent or an employee of the office, but ultimately the Commonwealth's Attorney is responsible for the content of the form. The Auditor of Public Accounts reviews these forms on an annual basis; therefore, all information used to prepare the form should be kept available.

*For General District Court reporting, please combine separate divisions into one general district court amount and submit one form.*

**Column F:** Enter the total amount of **collections** of delinquent fines, costs, forfeitures, penalties and interest collected by your office during this reporting period (as provided by the Department of Taxation, your In-House program, Treasurer or other local government entity, private attorney or private collection agent). Do not include any restitution amounts collected in this column. Note that any "increase rate" amounts collected are **not** included in the BR022 amount listed as debt collection receipts; these increase rate amounts collected are instead listed as Collection Fees Offset and will be reported in column H.

**Column G:** Enter the total amount of **collections of restitution** collected by your office during this reporting period (as provided by the Department of Taxation, your In-House program, Treasurer or other local government entity, private attorney or private collection agent). Note that any "increase rate" amounts collected are **not** included in the BR022 amount listed as restitution collections paid; these increase rate amounts collected are instead listed as Collection Fees Offset and will be reported in column H. Note that any collection of restitution interest is not included in the BR022 amount for restitution collections paid.

**Column H:** Enter the amount of the **Offset of Collection Fees** (proceeds from the "increase rate") during this reporting period (information available on the Supreme Court's Financial Management System BR022 June 2020 report, listed as Collection Fees Offset). This amount includes the "increase rate" portion of paid amounts for both fines, costs and interest, as well as restitution.

**Column I:** Enter the **fee for collection services**. If your office is charged a commission rate or fee for collecting delinquent fines and fees, enter the total amount paid to the collection agent for collection services on all amounts collected in this period. Include payments to the collection agent of the "increase rate" collected on restitution amounts collected.

**Column J:** Enter the **net collections** that were deposited to the court. Columns F plus G plus H minus Column I ( $F + G + H - I = J$ ). Reconcile to the Clerk of the Court's records.

**Collection Agent: Please complete form fully and accurately and provide to Commonwealth's Attorney;  
Commonwealth's Attorney: Please provide printed name of officer and locality, sign and date form.**

**Fax completed and signed form to the attention of Mark Pellett, Compensation Board (804) 371-0235, not later than Friday, August 21, 2020.**

**MASTER GUIDELINES GOVERNING COLLECTION OF UNPAID DELINQUENT  
COURT-ORDERED FINES AND COSTS PURSUANT TO  
VIRGINIA CODE § 19.2-349**

July 1, 2020

**1. PURPOSE**

These guidelines (also referred to as the “Master Guidelines”) establish the terms upon which Commonwealth’s Attorneys may enter into an agreement with (i) private attorneys in good standing with the Virginia State Bar or private collection agencies, (ii) a local governing body, (iii) the county or city treasurer, or (iv) the Department of Taxation for the collection of unpaid fines, court costs, forfeitures, penalties, statutory interest,<sup>1</sup> restitution, and restitution interest. These guidelines are also designed to establish the roles of the courts, Commonwealth’s Attorneys, the contractors, or other collection agents (collectively referred to as “contractors”) to ensure fiscal accountability through timely and accurate reporting and crediting of payments.

**2. APPLICATION AND SCOPE**

These Master Guidelines are mandatory and apply to all contracts for the collection of all fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest entered into by the attorneys for the Commonwealth and contractors, local governing bodies, county or city treasurers, or the Department of Taxation. These Master Guidelines are authorized by Virginia Code § 19.2-349, which requires that all contracts must comply with guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board. A Form for Contracts incorporating the guideline requirements is provided and shall be utilized. All contracts must, at a minimum, include the requirements contained in the Form for Contracts without limitation or exception. All contracts must include a provision rendering void and unenforceable any provision of the contract or any amendment thereof that conflicts with any provision of the Master Guidelines or Form for Contracts, as the same may be amended from time to time. The

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<sup>1</sup> As used in these guidelines, “statutory interest” is that interest imposed pursuant to Virginia Code § 19.2-353.5 and does not include interest accruing on restitution.

final form of contract entered into by a Commonwealth's Attorney shall include any additional provisions required by law and may include any additional provisions which do not conflict with these Master Guidelines and are deemed by the Commonwealth's Attorney to be advantageous and appropriate to the collection services to be procured.

### **3. TERMS TO BE INCLUDED IN CONTRACT**

**A. Parties.** A contract made pursuant to Virginia Code § 19.2-349 is made between a contractor, either an attorney in private practice who is a member in good standing with the Virginia State Bar, a private collection agency, the Department of Taxation, a local governing body, or the county or city treasurer and the Commonwealth's Attorney for the local jurisdiction. The contractor shall be an independent contractor and not an agent of the Commonwealth's Attorney. The contractor shall make reasonable and diligent efforts by lawful means to collect unpaid fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest in cases referred to the contractor by the Commonwealth's Attorney.

**B. Subcontracts.** The contract is not assignable by the contractor, in whole or in part, to any subcontractor or other third party, except where (i) the debtor or the debtor's assets are located outside the Commonwealth of Virginia and (ii) the assignment or subcontract is approved in writing by the Commonwealth's Attorney. This provision does not prohibit the use of other attorneys and employees in the same business entity.

**C. Term of the Contract.** The period of the contract will be twelve months. It may be renewed, for no more than four additional twelve-month periods, provided such renewals are subject to the guidelines in effect at the time of renewal as promulgated and amended by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation and the Compensation Board.

**D. Compensation.** The contractor, except for a treasurer not being compensated on a contingency basis as of January 1, 2015, will be compensated in an amount negotiated between the Commonwealth's Attorney and the contractor. This amount shall not exceed 35 percent of

all monies owed and actually collected through the contractor's efforts for unpaid fines, court costs, forfeitures, statutory interest, and penalties. Any treasurer not being compensated on a contingency basis as of January 1, 2015, shall be prohibited from being compensated on a contingency basis but shall instead be compensated \$35 for their administrative cost pursuant to Virginia Code § 58.1-3958. The amounts owed for outstanding fines, court costs, forfeitures, penalties, and restitution, which become delinquent and are initially sent to collection on or after July 1, 2014, shall be increased by 17 percent, as shall be specified in the contract. However, if such increase rate would exceed the percentage rate allowed as compensation to the contractor under the terms of the contract, then the delinquent amounts owed shall be increased by the lower percentage rate allowed as compensation under the contract. The increase rate shall not, under any circumstances, exceed 17 percent. The increase rate shall not be applied to statutory interest or restitution interest. The amount of the increase rate collected for fines, court costs, forfeitures, and penalties shall not be part of the compensation due the contractor and shall not be considered when the compensation due the contractor is calculated. The compensation due the contractor for the collection of restitution and restitution interest shall be limited solely to the increase rate applied to the restitution collected (see Attachment A for examples of compensation calculation), and to administrative cost charged by a treasurer not being compensated on a contingency basis as of January 1, 2015.

It is the responsibility of the Commonwealth's Attorney to notify the Office of the Executive Secretary of the Supreme Court of the compensation percentage rate specified in the contract. Such notification shall occur within five business days of the effective date of the commencement, renewal, or amendment of the contract. If the debtor makes payment directly to the court, the compensation due to a private contractor shall be calculated at a rate which is three percentage points less than the amount agreed to by the Commonwealth's Attorney and the private contractor. The compensation due to any contractor shall not be reduced in the case of the Department of Motor Vehicles receiving a debtor's payment on behalf of the court.

**E. Clerk's responsibilities.** (i) The clerk of the appropriate court will provide to the Commonwealth's Attorney a list of cases having unpaid fines, court costs, forfeitures, penalties, statutory interest, restitution, or restitution interest, hereafter called "accounts," which will be in

the form of a list of judgments resulting from such cases. The clerk will also provide two quarterly lists to the Commonwealth's Attorney; a list of defendants with an outstanding balance of restitution ordered by the court, and a list of accounts where more than 90 days have passed since the account was sent to collections and no payments have been made. These lists will be provided to the contractor by the Commonwealth's Attorney. The contractor will not be provided the file or copies of the files on a routine basis. However, the clerk will provide reasonable access to such files on a mutually convenient schedule with the contractor.

(ii) The Office of the Executive Secretary of the Supreme Court has established the following procedures for the clerks of all district and circuit courts to accept the remittance of unpaid delinquent court-ordered fines, court costs, forfeitures, statutory interest, penalties, restitution, restitution interest, and increase rate amounts:

On a weekly basis, the clerk of the appropriate court shall transmit to the contractor a record of all payments received during that period by the court directly from the debtor, or received by the Department of Motor Vehicles from the debtor on behalf of the court as reported by the Department of Motor Vehicles. On a weekly basis, the clerk will draw a check on the court's account made payable to the contractor which reflects all commissions due the contractor for payments receipted by the court or by the Department of Motor Vehicles on behalf of the court as reported by the Department of Motor Vehicles, or received by the collection agent and transmitted to the court during that period on accounts of the contractor and any necessary adjustments for items such as dishonored checks and disputed credit card payments. This check will be transmitted with the court's weekly report of payments received.

**F. Contractor responsibilities.** (i) The contractor has no authority whatsoever to compromise or settle a claim for less than the amount due, including the increase rate amounts assessed and any accrued interest. The contractor shall be responsible for calculating and collecting ongoing interest using interest tables provided by the appropriate court.

(ii) A contractor shall send reports with disbursements of all monies collected to the clerk of the appropriate court no less frequently than on a weekly basis. Each report, however, must be accompanied by a disbursement check to cover the monies collected by the contractor since the last report filed. A copy of these reports must be provided to the Commonwealth's Attorney for information purposes. The contractor is not authorized under any circumstances to withhold any monies, including the amounts owed to the contractor pursuant to the contract. The monies owed to the contractor shall be transmitted to the contractor by the clerk of the court as indicated in (3)(E)(ii) of these guidelines.

(iii) A contractor may wait for a period of no longer than two weekly reporting periods after receipt of a debtor's check to ensure payment on the debtor's check before reporting and disbursing these monies to the clerk. No refunds will be made by the clerk to the contractor for non-payment on a debtor's check.

(iv) A contractor must use forms which are approved by the Office of the Executive Secretary. The contractor must use the latest version of forms created by the Office of the Executive Secretary and cease using forms withdrawn by the Office of the Executive Secretary as such changes are implemented. A change in forms does not require amending the contract. Notification of form changes shall be sent to the contractor within five business days after receipt by the Commonwealth's Attorney.

(v) The contractor shall not engage in any unethical or illegal actions in the collection of these accounts. The contractor must also agree to retain all records for a period of at least five years and make the records available for inspection at any time by representatives of the Auditor of Public Accounts and/or the Commonwealth's Attorney.

**G. Transfer of Accounts.** Each account shall be transferred to the contractor at the time the contract is effective until the account is collected in full or until termination of the collection contract, whichever occurs first, subject to the provisions of Virginia Code § 19.2-341. The compensation due the contractor shall be calculated by the terms of the contract in effect at

the time the payment is collected, even if the contractor had undertaken collection efforts on the account under a predecessor contract prior to the effective date of the current contract.

**H. Responsibilities upon termination.** Upon termination of the contract, within five days, the contractor shall promptly return all accounts to the Commonwealth's Attorney together with a report containing the account status, address, and employment information concerning each debtor, to the extent permitted by law. A copy of this report shall also be sent to the appropriate court. In addition, the contractor shall provide a schedule of all accounts which have been docketed in any circuit court. The contractor shall also file a final report in compliance with subparagraphs (3) (F) (ii) and (iii) of these guidelines. After the contract has terminated, the contractor may not accept payments from any debtor, and the contractor will not be compensated for any payments made to the court. Upon termination of the contract, the contractor may not begin collection efforts on any new accounts. Monies held by the contractor at the time of contract termination shall be forwarded in full to the clerk of the court within two weeks of termination.

**I. Amendment of the contract.** The contract may be amended at any time by written agreement signed by the Commonwealth's Attorney and the contractor; however any contract, as amended, shall contain a provision making the contract subject to the terms and provisions of the Master Guidelines, as such Master Guidelines may be amended from time to time with the approval of the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board. The contract shall contain a provision that expressly provides that (i) the contract is deemed to conform to the Master Guidelines and (ii) any provision of the contract that conflicts with any provision of the Master Guidelines and Form for Contracts shall be void and unenforceable. However, should any such amendment required by or resulting from a change in the Master Guidelines be unacceptable to any party, that party may terminate the contract as provided herein. Amendments to the Master Guidelines will be sent to the contractor within five business days after receipt by the Commonwealth's Attorney. Either party may terminate the contract for any reason upon ninety days written notice. If the contract is terminated, the contractor must return all unused forms which have been provided to the contractor by the court for use pursuant to the contract.

**J. Liability and bond.** A private contractor must agree to bear the liability for any errors, damages, or injuries that occur during the course of the contract and as a result of the contractor's work. The Commonwealth of Virginia and the Commonwealth's Attorney must be held harmless for any such damages. At no additional cost to the Commonwealth of Virginia (including its courts and its Commonwealth's Attorneys), the contractor will bond or otherwise insure through licensed insurers or authorized government entities the faithful performance of all personnel in the contractor's office who may collect and disburse funds collected on unpaid fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest for at least \$10,000 each, or such higher sum as will provide coverage for collections, and shall provide documentary proof of such coverage to the Commonwealth's Attorney. The bond applicable to the Department of Taxation pursuant to Virginia Code § 58.1-201 shall satisfy this requirement.

**K. Department of Taxation.** In entering into contracts under these Guidelines, Commonwealth's Attorneys should note that, because the Department of Taxation is a state agency, it may not be subject to all the provisions of the Form for Contracts which has been developed pursuant to the Guidelines. For example, the Department of Taxation is prohibited from disclosing information obtained from the United States Internal Revenue Service.

#### **4. CONTRACTOR SELECTION**

**A.** Only one contractor shall be under contract with a particular Commonwealth's Attorney at any time to collect any unpaid fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest imposed by a particular court.

**B.** In selecting a contractor, the Commonwealth's Attorney should take into account the expertise of each potential contractor together with the fee for which each potential contractor is willing to perform services. There are a variety of ways in which such services can be obtained on a competitive basis, such as a Request for Proposal or competitive negotiations with several qualified potential contractors at the same time. All selections of contractors on a competitive

basis shall be made in accordance with the applicable provisions of Chapter 43 of Title 2.2 of the Code of Virginia, § 2.2-4300 et seq., the Virginia Public Procurement Act.

C. Commonwealth's Attorneys who serve on a part-time basis may not contract with themselves in their private capacity to make collections for the various courts.

D. Parties to the contract should be aware that it may be a violation of the Virginia Rules of Professional Conduct for a contractor who is an attorney to represent defendants in criminal cases in the same jurisdiction in which the Commonwealth's Attorney prosecutes criminal cases.

## **5. IMPLEMENTATION OF COLLECTION PROCEDURES**

A. The Commonwealth's Attorney shall provide to the clerk of the appropriate court a list of all accounts which have been referred to the contractor for collection by use of an appropriately marked copy of the list. A copy of any contract entered into by the Commonwealth's Attorney pursuant to Virginia Code § 19.2-349 shall be promptly filed after execution with the clerk of the court for which money is to be collected.

B. The contractor should be advised that the Commonwealth's Attorney has access to information from the Department of Motor Vehicles and/or the Virginia Employment Commission which could facilitate the collection process. The Commonwealth's Attorney should provide this information to the contractor when requested in a manner acceptable to the Commonwealth's Attorney. The contractor may use this information only in furtherance of collection efforts under the terms of the contract and shall otherwise keep the information confidential.

C. The contractor must take appropriate steps to ensure that judgments are docketed in each jurisdiction wherein the debtor is known to own an interest in realty. The contractor should notify the clerk in writing when a judgment has been docketed in a jurisdiction other than that in which the fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution

interest were originally imposed. The contractor must release any judgment obtained while under contract upon full payment at any time while the contractor retains the authority to do so under the terms of the contract.

**6. PERFORMANCE MEASURES**

Annually, at the beginning of each Fiscal Year, the contractor responsible for the collection of fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest shall file with the Commonwealth's Attorney a report describing the collection efforts employed during the prior Fiscal Year. Within 15 days of receipt of such report, the Commonwealth's Attorney shall file the report with the Compensation Board and each court included in the report. The Compensation Board shall make this information available to the Executive Secretary of the Supreme Court and all Commonwealth's Attorneys for their evaluation and renegotiation of collection contracts pursuant to Virginia Code Section 19.2-349.

**FORM FOR CONTRACTS GOVERNING COLLECTION OF UNPAID DELINQUENT COURT-  
ORDERED FINES AND COSTS PURSUANT TO  
VIRGINIA CODE § 19.2-349**

July 1, 2020

\* \* \*

**Contract for Collection Services Pursuant to Va. Code §19.2-349**

The Commonwealth's Attorney for the City/County of \_\_\_\_\_ (hereafter referred to as "the Commonwealth's Attorney") and \_\_\_\_\_ (hereafter referred to as "the Contractor") agree to the following terms and conditions (collectively referred to as "the contract"):

1. **PURPOSE:** The purpose of this contract is to effect the Commonwealth's Attorney's interest in obtaining and the Contractor's interest in providing the collection services and expertise of the Contractor to collect such fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest as may be referred to the Contractor for collection and satisfaction. The Commonwealth's Attorney and the Contractor (collectively referred to as "the parties") agree that the Contractor is an independent contractor and not an employee or an agent of the Commonwealth's Attorney.

2. **EFFORTS:** The Contractor agrees to initiate proper proceedings for the collection and satisfaction of such fines, court costs, forfeitures, penalties, statutory interest, restitution, and restitution interest thereon as may be referred to the Contractor for collection and satisfaction. The Contractor agrees to make reasonable and diligent efforts by lawful means to collect all unpaid fines, court costs, forfeitures, penalties, interest pursuant to Virginia Code § 19.2-353.5 (hereafter "statutory interest"), restitution, and restitution interest in cases referred to the Contractor by the Commonwealth's Attorney. The Contractor's failure to make reasonable and diligent efforts may result in termination of the contract without prior notice, and within fourteen calendar days of the effective date of any such termination, the contractor must return to the Clerk of the \_\_\_\_\_ Court of \_\_\_\_\_ City/County all unused forms provided to the contractor by such Court for use in the performance of the Contractor's duties under this contract. Within the same fourteen day period, the Contractor shall: (i) also return all accounts to the Commonwealth's Attorney with a report containing the account status, address, and employment information concerning each debtor, to the extent permitted by law; and (ii) provide a schedule of all accounts which have been docketed in any circuit court. A copy of this report shall simultaneously be sent to the appropriate court(s).

3. ASSIGNMENT OF CONTRACT AND USE OF SUBCONTRACTORS: This contract is not assignable by the Contractor, in whole or in part, to any subcontractor or other third party, except where (i) the debtor or the debtor's assets are located outside the Commonwealth of Virginia and (ii) the assignment or subcontract is approved in writing by the Commonwealth's Attorney. This provision does not prohibit the use of other attorneys and employees in the same firm or professional corporation.

4. CONTRACT PERIOD: Subject to the following provisions, this contract is for the twelve-month period beginning \_\_\_\_\_ and ending \_\_\_\_\_.

- a. The contract is renewable at the end of twelve months upon written agreement of the parties and subject to the Master Guidelines Governing Collection of Unpaid Delinquent Court-Ordered Fines and Costs Pursuant to Virginia Code § 19.2-349 (hereafter "Master Guidelines") promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board, in effect at the time of renewal. After the initial term of the contract, the contract may not be renewed for more than four additional twelve-month periods.
- b. In the event the contract terminates, either due to non-renewal or termination by either or both parties pursuant to paragraph 2 or 7 of the contract, the Contractor must relinquish all accounts to the Commonwealth's Attorney. After the contract has terminated, the Contractor may not continue collection efforts on cases begun prior to the termination.
- c. After the contract has terminated, a Contractor may not accept payment from any debtor and the Contractor will not be compensated for any payments made to the court for an account which had been referred to the Contractor. Monies held by the Contractor at the time of contract termination shall be forwarded in full to the clerk of the court within two weeks of termination.

5. CONFORMITY WITH MASTER GUIDELINES; AMENDMENTS: This contract may be amended at any time by written agreement signed by the Commonwealth's Attorney and the Contractor; however, any contract, as amended, shall be subject to the terms and provisions of the Master Guidelines then in effect as approved by the Office of the Attorney General, the Office of the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board. The contract and any amendment thereof shall be deemed to conform to the Master Guidelines, as such Master Guidelines may be amended from time to

time, and any provision of the contract that conflicts with any provision of the Master Guidelines, as such Master Guidelines may be amended from time to time, shall be void and unenforceable. However, should any such amendment effected by or resulting from a change in the Master Guidelines be unacceptable to any party, that party may terminate the contract as provided herein. Amendments to the Master Guidelines will be sent to the Contractor within five business days after receipt by the Commonwealth's Attorney. If any such amendment is unacceptable to either party, that party may terminate the contract as provided in paragraph 7 of this contract.

6. ADHERENCE: The parties covenant and agree that they will at all times abide by the Master Guidelines, as such Master Guidelines may be amended from time to time with the approval of the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board.

7. TERMINATION: Either party has the right to terminate this contract upon ninety days written notice either for cause or for the convenience of either party. Upon termination, whether pursuant to this paragraph or to a failure to renew this contract in accordance with subparagraph 4(a), within fourteen calendar days of any such termination date, the contractor must return to the Clerk of the \_\_\_\_\_ Court of \_\_\_\_\_ City/County all unused forms provided to the contractor by such Court for use in the performance of the Contractor's duties under this contract. Within the same fourteen day period, the Contractor shall: (i) also return all accounts to the Commonwealth's Attorney with a report containing the account status, address, and employment information concerning each debtor, to the extent permitted by law; and (ii) provide a schedule of all accounts which have been docketed in any circuit court. A copy of this report shall simultaneously be sent to the appropriate court(s).

8. COMPENSATION:

(a) The Contractor, except for a treasurer not being compensated on a contingency basis as of January 1, 2015, shall be compensated in the amount of \_\_\_\_\_ percent of all monies owed and actually collected through the Contractor's efforts for unpaid fines, court costs, forfeitures, statutory interest, and penalties. A treasurer not being compensated on a contingency basis as of January 1, 2015, shall be prohibited from being compensated on a contingency basis but shall instead be compensated \$35 for their administrative cost pursuant to Virginia Code § 58.1-3958. The amounts owed for outstanding fines, court costs, forfeitures, penalties, and restitution, which become delinquent and

are initially sent to collection on or after July 1, 2014, shall be increased by 17 percent, unless the percentage amount of compensation specified in this paragraph is less than 17 percent, in which case the delinquent amounts owed and initially sent to collection on or after July 1, 2014 shall be increased by the lesser percentage amount of compensation specified in this paragraph (“the increase rate”). The amount of the increase rate collected for fines, court costs, forfeitures, and penalties shall not be part of the compensation due the Contractor and shall not be considered when the compensation due the Contractor is calculated. The compensation due the Contractor for the collection of restitution and restitution interest shall be limited solely to the increase rate applied to the restitution collected and to the administrative cost allowed by Va. Code § 58.1-3958 and charged and directly collected by a treasurer not being compensated on a contingency basis as of January 1, 2015.

It is the responsibility of the Commonwealth’s Attorney to notify the Office of the Executive Secretary of the Supreme Court of the rate of compensation specified in the contract. Such notification shall occur within five business days of the effective date of the commencement, renewal, or amendment of this contract. The compensation due the Contractor shall be calculated by the terms of the contract in effect at the time the payment is collected, even if the Contractor had undertaken collection efforts on the account under a predecessor contract prior to the effective date of the current contract.

- (b) For those payments made directly to the court on the Contractor’s accounts, the Contractor shall be compensated at a rate which is three percentage points less than the rate agreed to by the Commonwealth’s Attorney and the Contractor. (This subparagraph applies only to contracts with private contractors.) The compensation due to the Contractor shall not be reduced in the case of the Department of Motor Vehicles receiving a debtor’s payment on behalf of the court.

9. **FORM OF REFERRAL:** The clerk of the appropriate court will provide to the Commonwealth’s Attorney a list of unpaid fines, court costs, forfeitures, penalties, statutory interest, restitution and restitution interest. This list will contain the following:

- (1) the debtor’s name;
- (2) the debtor’s address according to the court’s record;

- (3) if known, the debtor's social security number or driver's license number;
- (4) the principal amount due; and
- (5) the date(s) from which any interest is calculated.

This information shall be used solely for collection activities and shall be otherwise kept confidential. This list will be provided to the Contractor by the Commonwealth's Attorney. The Contractor will not be provided the case files or copies of the files on a routine basis. Subject to the provisions of Virginia Code § 19.2-341, each account shall be transferred to the Contractor until the account is collected in full or until termination of the contract, whichever occurs first.

10. SETTLEMENT OF CLAIMS: The parties to this contract expressly covenant and agree that the Contractor has no authority whatsoever to compromise or otherwise settle any case for less than the amount of the judgment plus any accrued interest and any increase rate assessed.

11. REPORTING REQUIREMENTS: The Contractor shall make a weekly report of collections on approved forms to the clerk of the appropriate court. A copy of the weekly report also shall be sent to the Commonwealth's Attorney for information purposes.

12. DISBURSEMENT OF COLLECTIONS: The Contractor shall make weekly disbursements to the clerk of all the monies collected for each calendar week. The disbursement must be made by check drawn on an account of the Contractor, which is to be made payable to the clerk of the appropriate court. The disbursement check is to be filed simultaneously with the weekly report. The Contractor is not authorized under any circumstances to withhold any monies, including the amounts owed to the contractor pursuant to the contract. The clerk of the court shall deduct the compensation due the Contractor from the monies received from the Contractor or collected directly from debtors, and disburse the compensation due the Contractor on a weekly basis.

13. MANDATORY USE OF STATE FORMS AND DEFINITION OF TERMS: Because of the Commonwealth's need for uniform accounting and reporting procedures within its courts, the Contractor shall:

- (1) use forms approved by the Office of the Executive Secretary for handling and reporting the amounts collected in accordance with the instructions for using such forms provided through the clerk; and

- (2) use all new forms and the latest version of existing forms as they are promulgated in accordance with the instructions for using such forms, and cease using any form the use of which has been discontinued by the Office of the Executive Secretary.

As used in this contract:

- “Accounts” means all individual listings of unpaid fines, penalties, court costs, forfeitures, statutory interest, restitution, and restitution interest provided by the court.
- “Forms” means official forms approved by the Office of the Executive Secretary of the Supreme Court of Virginia;
- “Instructions” means the printed official directions for completing and distributing official forms. These instructions will be printed by the Office of the Executive Secretary of the Supreme Court of Virginia and distributed through the Clerk.
- “Clerk” means the Clerk of the Court for which the accounts are being collected by the Contractor.

14. INSPECTION AND RETENTION OF RECORDS: The Contractor expressly agrees to allow inspection and audit at any time by the Auditor of Public Accounts and/or the Commonwealth’s Attorney of all records and files pertaining to accounts referred under this contract. The Contractor further expressly agrees to retain the records of collection efforts and transactions under this contract for a period of no less than five years.

15. CIVIL LIABILITY:

- (a) The Contractor agrees not to engage in any unethical or illegal actions in the collection of these accounts.
- (b) The Contractor agrees to be responsible for the work, to indemnify, to defend, and to hold harmless the Commonwealth’s Attorney, the Commonwealth of Virginia, its officers, agents, and employees from the payment of all sums of money (including attorney fees and court costs) by reason of any claim against them arising out of any and all occurrences resulting in damages, including but not

limited to, claims for bodily or mental injury or property or monetary loss, and claims asserted under the Workers' Compensation Act that may occur in connection with and as a result of the Contractor's performance of the contract. The Contractor agrees, at all times, after completion of the work, to continue to be responsible for the work, and to indemnify, defend, and hold harmless the Commonwealth's Attorney, the Commonwealth of Virginia, its officers, agents, and employees from all liabilities (including attorney fees and court costs) resulting from bodily or mental injury or property or monetary damage directly or indirectly arising out of the performance or non-performance of the contract. (This subparagraph applies only to contracts with private contractors.)

16. PERFORMANCE BOND: The Contractor, at no additional cost to the Commonwealth of Virginia (including its courts and its Commonwealth's Attorneys) will bond or otherwise insure through third party insurers licensed to do business in Virginia the faithful performance of the Contractor and each person the Contractor employs, including all subcontractors and assignees, to collect and disburse any unpaid fines, court costs, and other sums which the Contractor was employed to collect. Each such person or entity shall be individually bonded or insured for at least \$10,000.00 or such higher sum as will provide coverage for collections, with the Commonwealth of Virginia listed as an additional insured. The Contractor shall provide documentary proof of such coverage to the Commonwealth's Attorney. The bond applicable to the Department of Taxation pursuant to Virginia Code § 58.1-201 shall satisfy this requirement.

17. ETHICS IN PUBLIC CONTRACTING: By entering into this contract, the Contractor certifies that the contract is made without collusion or fraud and that the Contractor has not offered or received any benefits or inducements (or "kickbacks") from anyone, including any other potential contractor in connection with the award of this contract, and the Contractor further certifies that the Contractor has not conferred upon, or promised to, any public employee having responsibility for making the award of this contract, any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value.

18. APPLICABLE LAW AND COURTS: This contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The parties agree to comply with any applicable federal, state, and local laws and regulations.

19. DEBARMENT STATUS: By entering into this contract, the Contractor certifies that the Contractor is not currently debarred from submitting bids/proposals on contracts by any agency of the

Commonwealth of Virginia, nor is the Contractor an agent of any person or entity that is currently debarred from submitting bids/proposals on contracts by any agency of the Commonwealth of Virginia.

20. MEMBERSHIP IN VIRGINIA STATE BAR: By entering into this contract, the Contractor certifies that the Contractor is a member in good standing of the Virginia State Bar. (This provision applies only if the Contractor is an attorney.)

21. CONTRACTUAL CLAIMS: The Contractor shall submit any contractual claims, whether for money or other relief, to the Commonwealth's Attorney in writing no later than sixty days after final payment. Written notice of the Contractor's intention to file a claim shall be given to the Commonwealth's Attorney at the time of the occurrence or beginning of the work upon which the claim is based. The Commonwealth's Attorney shall issue a final decision in writing within thirty days after receipt of the written claim, and any failure to do so shall be deemed a final decision denying the claim. The above decision or deemed decision shall be final and conclusive unless the Contractor appeals within six months of the date of the decision by instituting legal action as provided in Virginia Code § 2.2 4364.

22. EMPLOYER IDENTIFICATION NUMBER: The Contractor shall provide the Commonwealth's Attorney with Contractor's federal employer identification number (unless Contractor is an individual, in which case Contractor shall provide his or her social security number in accordance with applicable federal tax laws).

23. PAYMENT OF SUBCONTRACTORS: Within seven days after receiving payment under this contract for work performed by a subcontractor, the Contractor shall either pay the subcontractor for the portion of the payment attributable to work performed by the subcontractor, or notify the Commonwealth's Attorney and subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment. The Contractor shall pay interest to the subcontractor on all amounts owed by Contractor that remain unpaid after the above period, except for amounts withheld as allowed in the previous sentence. Unless otherwise provided under the terms of this contract, such interest shall accrue at the rate of one percent per month. Contractor shall include in each subcontract under this contract a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor under this contract.

24. NONDISCRIMINATION: If this contract is for a sum in excess of \$10,000, during the performance of this contract, the Contractor agrees as follows: The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section. The Contractor will include the provisions of the foregoing sentences in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

25. IMMIGRATION COMPLIANCE: The Contractor does not, and shall not during the performance of this contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

26. AUTHORITY TO TRANSACT BUSINESS: If the Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Virginia Code or other law.

27. DRUG-FREE WORKPLACE: If this contract is for a sum in excess of \$10,000, during the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with this contract,

where the employees of the Contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

28. NONDISCRIMINATION STATEMENT BY THE COMMONWEALTH’S ATTORNEY: **“The Commonwealth’s Attorney does not discriminate against faith-based organizations.”**

IN WITNESS THEREOF the parties have caused the agreement to be executed by the following duly-authorized officials:

\_\_\_\_\_  
Commonwealth’s Attorney for  
City/County of \_\_\_\_\_

(Date) \_\_\_\_\_

\_\_\_\_\_  
Contractor’s Name and Title  
or Corporate Affiliation

(Date) \_\_\_\_\_

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

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

B. The clerk of the circuit court and district court of every county and city shall submit quarterly to the attorney for the Commonwealth of his county or city and any probation agency that serves such county or city:

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

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

C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § [19.2-354](#), the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 90 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part

of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § [18.2-186.3](#).

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

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

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

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

*Code 1950, § 19.1-341.2; 1960, c. 366; 1975, c. 495; 1979, c. 469; 1983, cc. 415, 499; 1988, cc. 742, 750, 770, 852; 1991, c. 202; 1992, c. 623; 1993, c. 269; 1994, cc. [841](#), [945](#); 2001, c. [414](#); 2003, c. [262](#); 2006, c. [359](#); 2007, c. [551](#); 2012, c. [615](#); 2017, cc. [786](#), [802](#), [806](#), [814](#); 2018, c. [724](#), [725](#).*

## § 58.1-3958. Payment of administrative costs, etc

The governing body of any county, city or town may impose, upon each person chargeable with delinquent taxes or other delinquent charges, fees to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall not exceed 20 percent of the taxes or other charges so collected. The administrative costs shall be in addition to all penalties and interest, and shall not exceed \$30 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to § [58.1-3919](#) but prior to the taking of any judgment with respect to such delinquent taxes or charges, and \$35 for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be \$150 or 25 percent of the cost, whichever is less; however, in no event shall the fee be less than \$25.

No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under § [58.1-3980](#), so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

Code 1950, § 58-1020.1; 1982, c. 620; 1984, c. 675; 1991, c. 271; 1994, c. [932](#); 1995, c. [395](#); 1997, c. [496](#); 1998, c. [648](#); 1999, c. [389](#); 2000, cc. [389](#), [453](#); 2003, c. [170](#).

**Chapter 1289, 2020 Acts of Assembly (2020 Appropriation Act).** Item 72. Compensation Board. Financial Assistance for Attorneys for the Commonwealth.

H. In accordance with the provisions of § [19.2-349](#), Code of Virginia, attorneys for the Commonwealth may employ individuals, or contract with private attorneys, private collection agencies, or other state or local agencies, to assist in collection of delinquent fines, costs, forfeitures, penalties, and restitution. If the attorney for the Commonwealth employs individuals, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. If the attorney for the Commonwealth does not undertake collection, the attorney for the Commonwealth shall, as soon as practicable, take steps to ensure that any agreement or contract with an individual, attorney or agency complies with the terms of the current Master Guidelines Governing Collection of Unpaid Delinquent Court-Ordered Fines and Costs Pursuant to Virginia Code § [19.2-349](#) promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board ("the Master Guidelines"). Notwithstanding any other provision of law, the delinquent amounts owed shall be increased by seventeen (17) percent to help offset the costs associated with employing such individuals or contracting with such agencies or individuals. If such increase would exceed the contracted collection agent's fee, then the delinquent amount owed shall be increased by the percentage or amount of the collection agent's fee. Effective July 1, 2015, as provided in § [19.2-349](#), Code of Virginia, treasurers not being compensated on a contingency basis as of January 1, 2015 shall be prohibited from being compensated on a contingency basis but shall instead be compensated for administrative costs pursuant to § [58.1-3958](#), Code of Virginia. Treasurers currently collecting a contingency fee shall be eligible to contract on a contingency fee basis. Effective July 1, 2015, any treasurer collecting a contingency fee shall retain only the expenses of collection, and the excess collection shall be divided between the state and the locality in the same manner as if the collection had been done by the

attorney for the Commonwealth. The attorneys for the Commonwealth shall account for the amounts collected and the fees and costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.