

Using This Form

This form is completed by court-appointed attorneys who represent indigent defendants in criminal matters and who are not public defenders. These court-appointed attorneys may use the form to request a waiver of statutory limitations on payment of fees, including a supplemental waiver amount up to a certain specified amount and an additional waiver amount to be awarded by the court in which the case is concluded.

Only one charge may be addressed on each form. The attorney must attach the DC-40 LIST OF ALLOWANCES and Attorney Time Sheet form (or other detailed time sheet) for submission to the court. The DC-40 (A) must be retained in the court's file with the Attorney Time Sheet. If such waiver is approved, the DC-40 LIST OF ALLOWANCES should reflect the appropriate judicial signature and specify the amount allowed prior to submission to the Office of the Executive Secretary for payment.

**APPLICATION FOR AND APPROVAL/DENIAL
FOR WAIVER OF FEE CAP**

Commonwealth of Virginia VA. CODE § 19.2-163

Case No. **1**

Vendor Invoice No. **2**

[] General District Court [] Circuit Court
[] Juvenile and Domestic Relations District Court

..... **3**
CITY OR COUNTY

..... **4**
PRESIDING JUDGE

..... **5**
DEFENDANT'S NAME

..... **6**
CHARGE AT TIME OF APPOINTMENT (CODE SECTION) **7**

..... **8**
DATE OF APPOINTMENT

..... **9**
DATE CASE CONCLUDED

COUNSEL'S NAME ADDRESS CITY STATE ZIP

Please explain in detail the basis for your request for waiver of the fee cap (Attach Form DC-40, LIST OF ALLOWANCES and Attorney Time Sheet):

My representation of this client on this charge required additional time and effort:

..... **10**
.....

My representation of this client on this charge presented novel and difficult issues:

..... **11**
.....

My representation of this client on this charge involved the following circumstances which warrant a waiver:

..... **12**
.....

PLEASE CHECK ALL THAT APPLY:

13 1. [] On the basis of the factors above, I request that the Court waive the otherwise applicable statutory fee cap and approve supplemental statutory waiver compensation in the amount of \$ **13** (See instructions on reverse for supplemental statutory waiver amount which can be requested.)

14 2. [] On the basis of the factors above, I request that the presiding judge and the chief judge approve an additional waiver in the amount of \$ **14**

I certify that the above claim for fees is true and that no compensation for these services has previously been received.

..... **15** **16** **17**
DATE COUNSEL SIGNATURE VSB MEMBER NUMBER

FOR COURT USE ONLY:

18 1. [] I approve supplemental statutory waiver compensation in the amount of \$ **18** for the following reason(s):
..... **19**
.....

20 [] Supplemental statutory waiver request is denied.

..... **21** **22**
JUDGE DATE

23 2. [] I find justified an additional waiver in the amount of \$ **23** for the following reason(s):
..... **24**
.....

25 [] Request for an additional waiver is not justified and is denied.

26 Additional waiver as justified is [] approved or [] denied.

..... **27** **28** **29** **30**
PRESIDING JUDGE DATE CHIEF JUDGE DATE

Data Elements

1. Insert case number.
2. Insert vendor invoice number from the DC-40, List of Allowances.
3. Court jurisdiction. Check applicable box for type of court.
4. Name of presiding judge.
5. Defendant's name.
6. Insert code section for charge for which counsel seeks waiver of the fee cap as provided by the court at time of appointment.
7. Name of counsel seeking waiver of limitation of fees or second-level waiver.
8. Original date court assigned the representation to counsel.
9. Date representation ended in the case for which counsel seeks waiver.
10. Provide facts supportive of statement immediately above.
11. Provide facts supportive of statement immediately above.
12. Provide facts supportive of statement immediately above.
13. Check if applicable and insert supplemental statutory waiver amount requested in blank field provided.
14. Check if applicable and insert second-level supplemental statutory waiver amount requested in blank field provided.
15. Date of counsel's signature.
16. Counsel's signature.
17. Enter counsel's Virginia State Bar member number.
18. Check if supplemental statutory compensation is approved. Enter the supplemental statutory waiver amount approved.
19. Enter the rationale for approval of supplemental statutory waiver in the blank fields provided.
20. Check if supplemental statutory waiver request is denied.
21. Judge's signature.
22. Date of judge's signature.
23. Check if additional waiver is found to be justified. Enter second-level supplemental statutory waiver amount in the blank field provided.
24. Enter the rationale for justification of the additional waiver in the fields provided.
25. Check if request for an additional waiver is not justified and is denied.
26. Check appropriate box indicating approval or denial of second-level supplemental statutory waiver amount determined to be justified by presiding judge.
27. Presiding judge's signature.
28. Date of presiding judge's signature.
29. Chief judge's signature.
30. Date of chief judge's signature

General Information and Instructions

Section 19.2-163 of the Code of Virginia provides the following fees for court-appointed counsel:

Court	Charge	Statutory Fee	Supplemental Statutory Waiver Amount	Fee by Additional Waiver
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 cap 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.

If you believe that your representation of an indigent defendant warrants consideration for an additional payment, please complete the reverse side of this form and present it to the court along with your standard request for payment (Form DC-40, LIST OF ALLOWANCES) and your Attorney Time Sheet. You must complete a separate application for each charge for which you are requesting a waiver of the fee cap. This form along with the Attorney Time Sheet shall be retained in the court file.

Additional Instructions:

Date of Appointment is the original date any court assigned the representation to you.

Date Case Concluded is the date representation ended in the case for which you are seeking payment.