

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

Commonwealth of Virginia VA. CODE § 19.2-163

Case No. ....

Vendor Invoice No. ....

☐ General District Court ☐ Circuit Court  
☐ Juvenile and Domestic Relations District Court

.....  
CITY OR COUNTY

.....  
PRESIDING JUDGE

.....  
CHARGE AT TIME OF APPOINTMENT (CODE SECTION)

.....  
DEFENDANT'S NAME

.....  
DATE OF APPOINTMENT

.....  
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:

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

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

**PLEASE CHECK ALL THAT APPLY:**

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 \$ ..... (See instructions on pages 2 and 3 for supplemental statutory waiver amount which can be requested.)
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 \$ ..... .

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

.....  
DATE

.....  
COUNSEL SIGNATURE

.....  
VSB MEMBER NUMBER

**FOR COURT USE ONLY:**

1. ☐ I approve supplemental statutory waiver compensation in the amount of \$ ..... for the following reason(s):

.....  
☐ Supplemental statutory waiver request is denied.

.....  
JUDGE

.....  
DATE

2. ☐ I find justified an additional waiver in the amount of \$ ..... for the following reason(s):

.....  
☐ The request for an additional waiver is not justified in whole or in part for the following reason(s):

.....  
PRESIDING JUDGE

.....  
DATE

Additional waiver as approved by the presiding judge is ☐ approved ☐ denied. The request for an additional waiver is not justified in whole or in part for the following reason(s):

☐ as indicated by the presiding judge ☐ .....

.....  
CHIEF JUDGE

.....  
DATE

## General Information and Instructions

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

The General Assembly has authorized the schedule on the next page for compensation for court-appointed counsel in cases other than Class 1 felonies. If co-counsel (more than one attorney) is appointed to represent a defendant at the same time in a case that is not a Class 1 felony or is not a felony punishable by a mandatory minimum term of confinement for life, then co-counsel shall share the maximum total compensation permitted for one attorney as set forth above. 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. Additional guidelines are posted at <https://www.vacourts.gov/courtadmin/aoc/fiscal/home> and [https://www.vacourts.gov/forms/district/statutory\\_criteria\\_fee\\_cap\\_waiver\\_guidelines.pdf](https://www.vacourts.gov/forms/district/statutory_criteria_fee_cap_waiver_guidelines.pdf).

**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.

**VIRGINIA CODE § 19.2-163 PROVIDES THE FOLLOWING FEES FOR COURT-APPOINTED COUNSEL:**  
(Effective for cases concluded on or after January 1, 2025)

<b>Court</b>	<b>Charge*</b>	<b>Statutory Fee</b>	<b>Supplemental Statutory Waiver Amount</b>
District	Misdemeanor (except for statutes in below box)	\$330	Up to \$120
District	Misdemeanor under § 18.2-266, 18.2-266.1, 18.2-270 or 46.2-341.24	\$448	Up to \$120
District	Probation Violation	\$180	Up to \$120
Juvenile and Domestic Relations District	Delinquency	\$680	Up to \$120 OR Up to \$650 if Equivalent to Class 2 Felony
Juvenile and Domestic Relations District	Probation Violation for Delinquency	\$180	Up to \$120 OR Up to \$650 if Probation Violation for Equivalent to Class 2 Felony
District	(If resolved in District Court) Felony, Class 3 to 6 (except for statutes in below box)	\$834	Up to \$155
District	(If resolved in District Court) Felony, Class 2 OR Felony Violation of § 18.2-35, 18.2-36, 18.2-36.1, 18.2-41, 18.2-51, 18.2-67.3, 18.2-79, 18.2-80, 18.2-370, 18.2-370.1 or 18.2-371.1	\$1,692	Up to \$850
Circuit	Felony, Class 3 to 6 (except for statutes in below box)	\$834	Up to \$155
Circuit	Felony, Class 2 OR Felony Violation of § 18.2-35, 18.2-36, 18.2-36.1, 18.2-41, 18.2-51, 18.2-67.3, 18.2-79, 18.2-80, 18.2-370, 18.2-370.1 or 18.2-371.1	\$1,692	Up to \$850
Circuit	Probation Violation for Felony (except if Probation Violation for Class 1 Felony)	\$445	Up to \$155 OR Up to \$850 if Probation Violation for Class 2 Felony or for Felony Violation of § 18.2-35, 18.2-36, 18.2-36.1, 18.2-41, 18.2-51, 18.2-67.3, 18.2-79, 18.2-80, 18.2-370, 18.2-370.1 or 18.2-371.1
Circuit	Misdemeanor (except for statutes in below box)	\$330	Not Available
Circuit	Misdemeanor under § 18.2-266, 18.2-266.1, 18.2-270 or 46.2-341.24	\$448	Not Available
Circuit	Probation Violation for Misdemeanor Punishable by Jail	\$180	Not Available
Circuit	Juvenile Adjudication on Appeal	\$680	Not Available
Circuit	Probation Violation for Appealed Juvenile Adjudication	\$180	Not Available

\*Defense of an unclassified felony punishable by 20 years or less is compensated as a Class 3 or 4 Felony, or by more than 20 years as a Class 2 Felony.

Fee for additional waiver is in the discretion of the court.

*Office of the Executive Secretary of the Supreme Court of Virginia*

January 1, 2025