

Criminal Justice Reform

Background:

Virginia's criminal justice rules and practices include many that are outdated, counterproductive, and in some cases, unjust. For example, in Virginia, theft of as little as \$200 can be prosecuted as a felony. This threshold was set over 35 years ago, in 1980, and today is one of the lowest in the nation. Thus some Virginians endure long prison sentences and face major obstacles to future employment for an offense that is not in fact a major crime and in most other states would be only a misdemeanor. Moreover, Virginia has one of the nation's stingiest provisions for indigent defense: payment to court-appointed attorneys is capped at \$445. This figure also has not been updated for years. As a result, many defendants receive grossly inadequate legal representation. Not surprisingly, Virginia imprisons too many of its citizens, at enormous financial cost to the state's taxpayers and enormous personal cost to many defendants who, often without having had adequate representation, endure punishment far out of proportion to their offense.

Virginia law also in many cases prohibits a defendant who pleaded guilty from later petitioning the state courts to overturn his conviction, even if newly discovered DNA evidence establishes his innocence. This law ignores the fact that some defendants plead guilty to crimes they did not commit, in order to obtain a reduced sentence or because they cannot afford counsel for trial: nationally, about 10% of those who have been exonerated by late-discovered DNA evidence had pleaded guilty to the crime charged. Allowing a defendant who pleaded guilty to later raise conclusive new evidence of actual innocence would, by definition, benefit only innocent defendants. The state has no legitimate interest in continuing to imprison any person for a crime he did not commit.

Virginia courts also today frequently suspend a defendant's driver's license if he cannot pay outstanding court fees, even if the fees do not relate to a driving offense. This can make it impossible for the defendant to obtain and keep a job in order to pay the very fees owed. It also punishes a defendant simply for being poor; a defendant who can afford to pay his fees does not face suspension of driving privileges.

Therefore, be it resolved that the 2017 Eighth District Democratic Convention recommends that:

- Virginia should increase the threshold for felony larceny to \$1000.
- Virginia should increase payments to court-appointed counsel for indigent defendants to the national average hourly rate among states for such services, and should provide for payment of experts and translators as appropriate and approved by the court.
- Virginia should permit a convicted defendant who obtains DNA evidence of his innocence to petition to have his conviction overturned, even if he previously pleaded guilty to the offense.
- Virginia should cease suspending the driver's license of a defendant who lacks resources to pay outstanding court fees for offenses unrelated to driving.