

25101891D

1 **HOUSE BILL NO. 1850**

2 Offered January 13, 2025

3 Prefiled January 6, 2025

4 *A BILL to amend and reenact § 19.2-243 of the Code of Virginia, relating to limitation on prosecution of*
5 *felony due to lapse of time after finding of probable cause; exceptions; competency evaluation.*

6 Patron—Arnold

7 Referred to Committee for Courts of Justice

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 19.2-243 of the Code of Virginia is amended and reenacted as follows:**10 **§ 19.2-243. Limitation on prosecution of felony due to lapse of time after finding of probable cause; misdemeanors; exceptions.**11 Where a district court has found that there is probable cause to believe that an adult has committed a
12 felony, the accused, if he is held continuously in custody thereafter, shall be forever discharged from
13 prosecution for such offense if no trial is commenced in the circuit court within five months from the date
14 such probable cause was found by the district court; and if the accused is not held in custody but has been
15 recognized for his appearance in the circuit court to answer for such offense, he shall be forever discharged
16 from prosecution therefor if no trial is commenced in the circuit court within nine months from the date such
17 probable cause was found.18 If there was no preliminary hearing in the district court, or if such preliminary hearing was waived by the
19 accused, the commencement of the running of the ~~five~~ *five-month* and ~~nine~~ *nine-month* periods,
20 respectively, set forth in this section; shall be from the date an indictment or presentment is found against the
21 accused.22 If an indictment or presentment is found against the accused but he has not been arrested for the offense
23 charged therein, the ~~five~~ *five-month* and ~~nine~~ *nine-month* periods, respectively, shall commence to run
24 from the date of his arrest thereon.25 Where a case is before a circuit court on appeal from a conviction of a misdemeanor or traffic infraction
26 in a district court, the accused shall be forever discharged from prosecution for such offense if the trial de
27 novo in the circuit court is not commenced (i) within five months from the date of the conviction if the
28 accused has been held continuously in custody or (ii) within nine months of the date of the conviction if the
29 accused has been recognized for his appearance in the circuit court to answer for such offense.30 The provisions of this section shall not apply to such period of time as the failure to try the accused was
31 caused:32 1. By his insanity ~~or~~, by reason of his confinement in a hospital for care and observation, *or by reason of*
33 *an evaluation to determine his competency to stand trial;*34 2. By the witnesses for the Commonwealth being enticed or kept away, or prevented from attending by
35 sickness or accident;

36 3. By the granting of a separate trial at the request of a person indicted jointly with others for a felony;

37 4. By continuance granted on the motion of the accused or his counsel, or by concurrence of the accused
38 or his counsel in such a motion by the attorney for the Commonwealth, or by the failure of the accused or his
39 counsel to make a timely objection to such a motion by the attorney for the Commonwealth, or by reason of
40 his escaping from jail or failing to appear according to his recognizance;41 5. By continuance ordered pursuant to subsection I or J of § 18.2-472.1 or subsection C or D of §
42 19.2-187.1;

43 6. By the inability of the jury to agree in their verdict; or

44 7. By a natural disaster, civil disorder, or act of God.

45 But the time during the pendency of any appeal in any appellate court shall not be included as applying to
46 the provisions of this section.47 For the purposes of this section, an arrest on an indictment or warrant or information or presentment is
48 deemed to have occurred only when such indictment, warrant, information, or presentment or the summons
49 or capias to answer such process is served or executed upon the accused and a trial is deemed commenced at
50 the point when jeopardy would attach or when a plea of guilty or nolo contendere is tendered by the
51 defendant. The lodging of a detainer or its equivalent shall not constitute an arrest under this section.

INTRODUCED

HB1850