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HOUSE BILL NO. 2652

Offered January 14, 2025

A BILL to amend and reenact §§ 16.1-135, 19.2-125, and 19.2-319 of the Code of Virginia, relating to bail and recognizance; appeal of conviction.

Patrons—Davis and Owen

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-135, 19.2-125, and 19.2-319 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-135. Bail and recognizance; papers filed with circuit court.

A person who has been convicted of an offense in a district court and who has noted an appeal, either at the time judgment is rendered or subsequent to its entry, shall be given credit for any bond that he may have posted in the court from which he appeals and shall be treated in accordance with the provisions of Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2. Any new bond which may be required The court shall not require any new bond for the release of such person pending the appeal shall be given before the judge or the clerk of the district court and treated in accordance with Article 1 of Chapter 9 of Title 19.2; however, if the judge or clerk is not available to take the bond, the bond may be given before a magistrate serving the jurisdiction. Whenever an appeal is taken and the ten-day 10-day period prescribed by § 16.1-133 has expired the papers shall be promptly filed with the clerk of the circuit court.

§ 19.2-125. Release pending appeal from conviction in court not of record.

A person who has been convicted of an offense in a district court and who has noted an appeal shall be given credit for any bond that he may have posted in the court from which he appeals and shall be treated in accordance with the provisions of this article. The court shall not require any new bond for the release of such person pending the appeal.

§ 19.2-319. When execution of sentence to be suspended; bail; appeal from denial.

If a person sentenced by a circuit court to confinement in the state correctional facility indicates an intention to apply for a writ of error, the circuit court shall postpone the execution of such sentence for such time as it may deem proper.

In any other criminal case wherein judgment is given by any circuit court to which a writ of error lies, and in any case of judgment for any civil or criminal contempt, from which an appeal may be taken or to which a writ of error lies, the circuit court giving such judgment may postpone the execution thereof for such time and on such terms as it deems proper.

In any case after conviction if the sentence, or the execution thereof, is suspended in accordance with this section, or for any other cause, the circuit court, or the judge thereof, may, and in any case of a misdemeanor shall, set bail in such penalty and for appearance at such time as the nature of the case may require; provided that, if the conviction was for a violent felony as defined in § 19.2-297.1 and the defendant was sentenced to serve a period of incarceration not subject to suspension, then the circuit court shall presume, subject to rebuttal, that no condition or combination of conditions of bail will reasonably assure the appearance of the convicted person or the safety of the public.

In any case in which the circuit court denies bail, the reason for such denial shall be stated on the record of the case. A writ of error from the Court of Appeals shall lie to any such judgment refusing bail or requiring excessive bail. Upon review by the Court of Appeals, if the decision by the trial court to deny bail is overruled, the Court of Appeals shall either set bail or remand the matter to circuit court for such further action regarding bail as the Court of Appeals directs.

INTRODUCED

HB2652