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HOUSE BILL NO. 1277

Offered January 14, 2026

Prefiled January 14, 2026

A BILL to amend and reenact §§ 18.2-31, 19.2-36, 19.2-120, 19.2-123, and 19.2-124 of the Code of Virginia, relating to aggravated murder; admission to bail; rebuttable presumption against bail; magistrates.

Patron—Hamilton

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-31, 19.2-36, 19.2-120, 19.2-123, and 19.2-124 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-31. Aggravated murder defined; punishment.

A. The following offenses shall constitute aggravated murder, punishable as a Class 1 felony:

1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money or a pecuniary benefit or with the intent to defile the victim of such abduction;

2. The willful, deliberate, and premeditated killing of any person by another for hire;

3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;

4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery;

5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy, or attempted forcible sodomy or object sexual penetration;

6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in § 9.1-101, a fire marshal appointed pursuant to § 27-30 or a deputy or an assistant fire marshal appointed pursuant to § 27-36, when such fire marshal or deputy or assistant fire marshal has police powers as set forth in §§ 27-34.2 and 27-34.2:1, an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, an auxiliary deputy sheriff appointed pursuant to § 15.2-1603, or any law-enforcement officer of another state or the United States having the power to arrest for a felony under the laws of such state or the United States, when such killing is for the purpose of interfering with the performance of his official duties;

7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction;

8. The willful, deliberate, and premeditated killing of more than one person within a three-year period;

9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such killing is for the purpose of furthering the commission or attempted commission of such violation;

10. The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise as defined in subsection I of § 18.2-248;

11. The willful, deliberate, and premeditated killing of a pregnant woman by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth;

12. The willful, deliberate, and premeditated killing of a person under the age of 14 by a person age 21 or older;

13. The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism as defined in § 18.2-46.4;

14. The willful, deliberate, and premeditated killing of a justice of the Supreme Court, a judge of the Court of Appeals, a judge of a circuit court or district court, a retired judge sitting by designation or under temporary recall, or a substitute judge appointed under § 16.1-69.9:1 when the killing is for the purpose of interfering with his official duties as a judge; ~~and~~

15. The willful, deliberate, and premeditated killing of any witness in a criminal case after a subpoena has been issued for such witness by the court, the clerk, or an attorney, when the killing is for the purpose of interfering with the person's duties in such case*; and*

16. The willful, deliberate, and premeditated killing of any person while such person is on or within a vehicle operated by a public transportation service as defined in § 18.2-160.2.

B. For a violation of subdivision A 6 where the offender was 18 years of age or older at the time of the offense, the punishment shall be no less than a mandatory minimum term of confinement for life.

C. If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or

invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

§ 19.2-36. Chief magistrates.

A. The Executive Secretary of the Supreme Court of Virginia may appoint chief magistrates, for the purpose of assisting in the training of the magistrates and being responsible to the Executive Secretary for the conduct of the magistrates and to further assist the Office of the Executive Secretary in the operation of one or more of the magisterial regions. The chief magistrate shall exercise direct daily supervision over the magistrates he supervises and shall have the power to suspend without pay a magistrate after consultation and with the concurrence of the Executive Secretary. *If a magistrate is suspended pursuant to this subsection, the chief magistrate shall file with the Executive Secretary a written order stating the reasons for the suspension, including a failure to issue written findings related to determination of bail as required by §§ 19.2-120 and 19.2-123.*

B. To be eligible for appointment as chief magistrate, a person shall meet all of the qualifications of a magistrate under § 19.2-37 and must be a member in good standing of the Virginia State Bar. His appointment as chief magistrate shall terminate effective on the date on which his membership in good standing ceases. The requirements of this subsection relating to membership in the Virginia State Bar shall not apply to any person appointed as a chief magistrate before July 1, 2008, who continues in that capacity without a break in service.

§ 19.2-120. Admission to bail.

A. Prior to conducting any hearing on the issue of bail, release, or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

B. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed; or

2. His liberty will constitute an unreasonable danger to himself, family or household members as defined in § 16.1-228, or the public.

C. In making a determination under subsection B, the judicial officer shall consider all relevant information, including (i) the nature and circumstances of the offense; (ii) whether a firearm is alleged to have been used in the commission of the offense; (iii) the weight of the evidence; (iv) the history of the accused or juvenile, including his family ties or involvement in employment, education, or medical, mental health, or substance abuse treatment; (v) his length of residence in, or other ties to, the community; (vi) his record of convictions; (vii) his appearance at court proceedings or flight to avoid prosecution or convictions for failure to appear at court proceedings; (viii) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness, juror, victim, or family or household member as defined in § 16.1-228; ~~and~~ (ix) any evidence the person provided indicating that such person (a) is currently pregnant, (b) has recently given birth, or (c) is currently nursing a child*; and (x) testimony from the arresting officer's observations of the behavior of the accused prior to, during, or after the arrest that may provide reasonable grounds for the judicial officer to believe the accused is a danger to themselves or others. In considering any mental health history of the accused or juvenile, the judicial officer shall consider any involuntary commitments pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2 to which the accused or juvenile has been subject in the three years prior to the alleged offense*.

D. A judicial officer who admits a person to bail who is charged with an act of violence as defined in § 19.2-297.1 shall notify the attorney for the Commonwealth for the jurisdiction in which such person's case is filed contemporaneously with such person's grant of bail or release. Notice to the attorney for the Commonwealth may be made by facsimile or other electronic means.

E. *The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:*

1. An act of violence as defined in § 19.2-297.1;

2. An offense that occurs upon or within a vehicle operated by a public transportation service as defined in § 18.2-160.2;

3. An offense for which the maximum sentence is life imprisonment; or

4. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction.

F. For a person who is charged with an offense giving rise to a rebuttable presumption against bail, any judicial officer may set or admit such person to bail in accordance with this section.

G. The judicial officer shall consider the factors in subsection C and such other factors as he deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection E, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public. The judicial officer shall attach his written findings of fact

explaining the reasons why he determined the conditions of release to be appropriate and set or admitted such person to bail who is charged with an offense giving rise to a rebuttable presumption against bail and applying such factors listed in subsection C.

H. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

~~F.~~ *I.* If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a $15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.

§ 19.2-123. Release of accused on secured or unsecured bond or promise to appear; conditions of release.

A. Any person arrested for a felony who *(i)* has previously been convicted of a felony, ~~or who~~ *(ii)* is presently on bond for an unrelated arrest in any jurisdiction, ~~or who~~ *(iii)* is on probation or parole, *(iv) has never been convicted of a violent offense, as defined in § 19.2-297.1, but his current arrest is for a violent felony, or (v) has been convicted within the previous 10 years of three or more offenses, provided that each such offense is a Class 1 misdemeanor or felony offense and that the defendant has been at liberty between such convictions,* may be released only upon a secure bond. This provision may be waived with the approval of the judicial officer and with the concurrence of the attorney for the Commonwealth or the attorney for the county, city or town. Subject to the foregoing, when a person is arrested for either a felony or a misdemeanor, any judicial officer may impose any one or any combination of the following conditions of release:

1. Place the person in the custody and supervision of a designated person, organization or pretrial services agency which, for the purposes of this section, shall not include a court services unit established pursuant to § 16.1-233;

2. Place restrictions on the travel, association or place of abode of the person during the period of release and restrict contacts with household members for a specified period of time;

2a. Require the execution of an unsecured bond;

3. Require the execution of a secure bond which at the option of the accused shall be satisfied with sufficient solvent sureties, or the deposit of cash in lieu thereof. Only the actual value of any interest in real estate or personal property owned by the proposed surety shall be considered in determining solvency and solvency shall be found if the value of the proposed surety's equity in the real estate or personal property equals or exceeds the amount of the bond;

3a. Require that the person do any or all of the following: (i) maintain employment or, if unemployed, actively seek employment; (ii) maintain or commence an educational program; (iii) avoid all contact with an alleged victim of the crime and with any potential witness who may testify concerning the offense; (iv) comply with a specified curfew; (v) refrain from possessing a firearm, destructive device, or other dangerous weapon; (vi) refrain from excessive use of alcohol, or use of any illegal drug or any controlled substance not prescribed by a health care provider; and (vii) submit to testing for drugs and alcohol until the final disposition of his case;

3b. Place a prohibition on a person who holds an elected constitutional office and who is accused of a felony arising from the performance of his duties from physically returning to his constitutional office;

3c. Require the accused to accompany the arresting officer to the jurisdiction's fingerprinting facility and submit to having his photograph and fingerprints taken prior to release; or

4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to assure his good behavior pending trial, including a condition requiring that the person return to custody after specified hours or be placed on home electronic incarceration pursuant to § 53.1-131.2 or, when the person is required to execute a secured bond, be subject to monitoring by a GPS (Global Positioning System) tracking device, or other similar device. The defendant may be ordered by the court to pay the cost of the device.

Upon satisfaction of the terms of recognizance, the accused shall be released forthwith.

In addition, where the accused is an individual receiving services in a state training center for individuals with intellectual disability, the judicial officer may place the individual in the custody of the director of the training center, if the director agrees to accept custody. The director is hereby authorized to take custody of the individual and to maintain him at the training center prior to a trial or hearing under such circumstances as will reasonably assure the appearance of the accused for the trial or hearing.

B. In any jurisdiction served by a pretrial services agency which offers a drug or alcohol screening or testing program approved for the purposes of this subsection by the chief general district court judge, any such person charged with a crime may be requested by such agency to give voluntarily a urine sample, submit to a drug or alcohol screening, or take a breath test for presence of alcohol. A sample may be analyzed for the presence of phencyclidine (PCP), barbiturates, cocaine, opiates or such other drugs as the agency may deem appropriate prior to any hearing to establish bail. The judicial officer and agency shall inform the accused or

juvenile being screened or tested that test results shall be used by a judicial officer only at a bail hearing and only to determine appropriate conditions of release or to reconsider the conditions of bail at a subsequent hearing. All screening or test results, and any pretrial investigation report containing the screening or test results, shall be confidential with access thereto limited to judicial officers, the attorney for the Commonwealth, defense counsel, other pretrial service agencies, any criminal justice agency as defined in § 9.1-101 and, in cases where a juvenile is screened or tested, the parents or legal guardian or custodian of such juvenile. However, in no event shall the judicial officer have access to any screening or test result prior to making a bail release determination or to determining the amount of bond, if any. Following this determination, the judicial officer shall consider the screening or test results and the screening or testing agency's report and accompanying recommendations, if any, in setting appropriate conditions of release. In no event shall a decision regarding a release determination be subject to reversal on the sole basis of such screening or test results. Any accused or juvenile whose urine sample has tested positive for such drugs and who is admitted to bail may, as a condition of release, be ordered to refrain from use of alcohol or illegal drugs and may be required to be tested on a periodic basis until final disposition of his case to ensure his compliance with the order. Sanctions for a violation of any condition of release, which violations shall include subsequent positive drug or alcohol test results or failure to report as ordered for testing, may be imposed in the discretion of the judicial officer and may include imposition of more stringent conditions of release, contempt of court proceedings, or revocation of release. Any report of a violation of any pretrial condition of release provided to the court shall be sent by the pretrial services agency to the attorney for the Commonwealth and the counsel of record for the accused or juvenile, or directly to the accused or juvenile if such person is not represented by counsel. Any test given under the provisions of this subsection which yields a positive drug or alcohol test result shall be reconfirmed by a second test if the person tested denies or contests the initial drug or alcohol test positive result. The results of any drug or alcohol test conducted pursuant to this subsection shall not be admissible in any judicial proceeding other than for the imposition of sanctions for a violation of a condition of release.

C. [Repealed.]

D. Nothing in this section shall be construed to prevent an officer taking a juvenile into custody from releasing that juvenile pursuant to § 16.1-247. If any condition of release imposed under the provisions of this section is violated, a judicial officer may issue a capias or order to show cause why the recognizance should not be revoked.

E. Nothing in this section shall be construed to prevent a court from imposing a recognizance or bond designed to secure a spousal or child support obligation pursuant to § 16.1-278.16, Chapter 5 (§ 20-61 et seq.) of Title 20, or § 20-114 in addition to any recognizance or bond imposed pursuant to this chapter.

F. The judicial officer shall attach his written findings of fact explaining the reasons why he determined the condition of release to be appropriate pursuant to the factors listed in subsection C of § 19.2-120 for a defendant who (i) is charged with a violent felony, as defined in § 19.2-297.1, or (ii) has been convicted within the previous 10 years of three or more offenses, provided that each such offense is a Class 1 misdemeanor or felony offense and that the defendant has been at liberty between such convictions.

§ 19.2-124. Appeal from bail, bond, or recognizance order.

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal the decision of the judicial officer.

If the initial bail decision on a charge brought by a warrant or district court capias is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the district court in which the case is pending.

If the initial bail decision on a charge brought by direct indictment or presentment or circuit court capias is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the circuit court in which the case is pending.

If the appeal of an initial bail decision is taken on any charge originally pending in a district court after that charge has been appealed, certified, or transferred to a circuit court, the person shall first appeal to the circuit court in which the case is pending.

Any bail decision made by a judge of a court may be appealed successively by the person to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.

The bail decision of the higher court on such appeal, unless the higher court orders otherwise, shall be remanded to the court in which the case is pending for enforcement and modification. The court in which the case is pending shall not modify the bail decision of the higher court, except upon a change in the circumstances subsequent to the decision of the higher court.

B. The attorney for the Commonwealth may appeal a bail, bond, or recognizance decision to the same court to which the accused person is required to appeal under subsection A.

C. ~~The~~ *In a matter not governed by subsection E of § 19.2-120, the* court granting or denying such bail may, upon appeal thereof~~,~~ and for good cause shown, stay execution of such order for so long as reasonably practicable for the party to obtain an expedited hearing before the next higher court. *When a district court grants bail over the presumption against bail in a matter that is governed by subsection E of § 19.2-120 and upon notice by the Commonwealth of its appeal of the court's decision, the court shall stay execution of such*

order for so long as reasonably practicable for the Commonwealth to obtain an expedited hearing before the circuit court, but in no event more than five days, unless the defendant requests a hearing date outside the five-day limit.

No such stay under this subsection may be granted after any person who has been granted bail has been released from custody on such bail.

D. No filing or service fees shall be assessed or collected for any appeal taken pursuant to this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.