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HOUSE BILL NO. 257

Offered January 9, 2002

Prefiled January 7, 2002

A BILL to amend and reenact §§ 8.01-670 and 17.1-405 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-670.1, relating to interlocutory appeals.

Patron—McQuigg

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-670 and 17.1-405 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 8.01-670.1 as follows:

§ 8.01-670. In what cases awarded.

A. Except as provided by § 17.1-405, any person may present a petition for an appeal to the Supreme Court if he believes himself aggrieved:

1. By any judgment in a controversy concerning:

a. The title to or boundaries of land,

b. The condemnation of property,

c. The probate of a will,

d. The appointment or qualification of a personal representative, guardian, conservator, committee, or curator,

e. A mill, roadway, ferry, wharf, or landing,

f. The right of the Commonwealth, or a county, or municipal corporation to levy tolls or taxes, or

g. The construction of any statute, ordinance, or county proceeding imposing taxes; or

2. By the order of a court refusing a writ of quo warranto or by the final judgment on any such writ; or

3. By a final judgment in any other civil case.

B. Except as provided by § 17.1-405, any party may present a petition for an appeal to the Supreme Court in any case in chancery wherein there is an interlocutory decree or order:

1. Granting, dissolving or denying an injunction; or

2. Requiring money to be paid or the possession or title of property to be changed; or

3. Adjudicating the principles of a cause.

C. Except in cases where appeal from a final judgment lies in the Court of Appeals, as provided in § 17.1-405, any party may present a petition pursuant to § 8.01-670.1 for appeal to the Supreme Court.

§ 8.01-670.1. Appeal of interlocutory orders and decrees by permission.

When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order or decree that is not otherwise appealable, any party may file in the circuit court a statement of the reasons why an immediate interlocutory appeal should be permitted.

The statement shall include a concise analysis of the statutes, rules or cases believed to be determinative of the issues and request that the court certify in writing that the order or decree involves a question of law as to which (i) there is substantial ground for difference of opinion, (ii) there is no clear, controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of Appeals of Virginia, and (iii) determination of the issues will be dispositive of a material aspect of the proceeding currently pending before the court.

Within ten days of such certification by the circuit court, a petition for appeal may be filed with the appellate court that would have jurisdiction in an appeal from a final judgment in the proceeding. If the appellate court determines that the certification by the circuit court has sufficient merit, it may, in its discretion, permit an appeal to be taken from the interlocutory order or decree and shall notify the certifying circuit court and counsel for the parties of its decision. No petitions or appeals under this section shall stay proceedings in the circuit court unless the circuit court or appellate court so orders.

The consideration of any petition and appeal by the appellate court shall be in accordance with the applicable provisions of the Rules of the Supreme Court and shall not take precedence on the docket unless the court so orders.

§ 17.1-405. Appellate jurisdiction—Administrative agency, Virginia Workers' Compensation Commission, and domestic relations appeals.

Any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

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- 59 2. Any final decision of the Virginia Workers' Compensation Commission;
60 3. Any final judgment, order, or decree of a circuit court involving:
61 a. Affirmance or annulment of a marriage;
62 b. Divorce;
63 c. Custody;
64 d. Spousal or child support;
65 e. The control or disposition of a child;
66 f. Any other domestic relations matter arising under Title 16.1 or Title 20;
67 g. Adoption under Chapter 10.2 (§ 63.1-219.7 et seq.) of Title 63.1; or
68 h. A final grievance hearing decision issued pursuant to subsection B of § 2.2-3007.
69 4. Any interlocutory decree or order entered in any of the cases listed in this section (i) granting,
70 dissolving, or denying an injunction or (ii) adjudicating the principles of a cause.
71 5. *Any interlocutory decree or order reviewable under the provisions of § 8.01-670.1 in any case in*
72 *which appeal from a final judgment would be to the Court of Appeals.*