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HOUSE BILL NO. 61

Offered January 9, 2002

Prefiled December 13, 2001

A *BILL to amend and reenact §§ 15.2-1638 and 15.2-1643 of the Code of Virginia, relating to courthouses; construction and repair.*

Patrons—Morgan, Dudley and Rapp

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1638 and 15.2-1643 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1638. County or city governing body to provide courthouse, clerk's office, jail and suitable facilities for attorney for the Commonwealth; acquisition of land.

The governing body of every county and city shall provide courthouses with suitable space and facilities to accommodate the various courts and officials thereof serving the county or city; within or outside such courthouses, a clerk's office, the record room of which shall be fireproof; a jail; and, upon request therefor, suitable space and facilities for the attorney for the Commonwealth to discharge the duties of his office. The costs thereof and of the land on which they may be, and of keeping the same in good order, shall be chargeable to the county or city. The fee simple of the lands and of the buildings and improvements thereon utilized for such courthouses shall be in the county or city, and the governing body of the county or city may purchase so much of such property, as, with what it has, may be necessary for the purposes enumerated or for any other proper purpose of the county or city. However, any portion of the property owned by a county and located within a city or town and not actually occupied by the courthouse, clerk's office, or jail, may be sold or exchanged and conveyed to such city or town to be used for street or other public purposes. Any such sale or exchange by the governing body of a county shall be made in accordance with the provisions of § 15.2-1800.

The amendments contained in Chapter 90 of the 1986 Acts of Assembly shall not apply to any city with a population according to the 1980 census of not less than 240,000 nor more than 265,000.

Nothing herein shall be construed to allow the judge or judges of any court to require a county or city to erect a replacement or additional courthouse where the existing courthouse has not been found by a panel established under § 15.2-1643 to endanger the health, welfare and safety of the residents of the Commonwealth.

§ 15.2-1643. Circuit courts to order court facilities to be repaired.

A. When it appears to the circuit court for any county or city, from the report of persons appointed to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure or out of repair, ~~or otherwise insufficient, to the extent that the facilities pose a danger to the health, welfare and safety of the residents of the Commonwealth,~~ the court shall enter an order, in the name and on behalf of the Commonwealth against the supervisors of the county, or the members of the council of the city, as the case may be, to show cause why a mandamus should not issue, commanding them to cause the court facilities of such county or city to be made secure, or put in good repair, ~~or rendered otherwise sufficient,~~ as the case may be, and to proceed as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of such order to be served upon each supervisor or member of the council, as the case may be.

B. Upon the entry of such order, as provided in subsection A hereof, the chief judge of the circuit shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of the notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are alleged to be necessary to hear and determine whether the court facilities are in fact insecure or out of repair ~~or otherwise insufficient,~~ and the extent to which repairs, if any, are necessary.

Before a mandamus is issued, if the concerned governing body requests, the circuit court judge hearing the matter shall appoint a five-member panel, qualified by training and experience, to review the court facilities in question and make recommendations to the circuit court judge concerning the construction or repairs deemed necessary.

In making their recommendations, the panel shall consider matters such as, but not limited to, the following:

1. Security provisions to safeguard court personnel, participants and the public;
2. Efficient layout and circulation patterns to maximize public access, promote efficient operations, and accommodate the diverse users;
3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms,

INTRODUCED

HB61

59 prison holding areas, and public information areas; and

60 4. Comfort, safety and obsolescence of the existing facility or any part thereof.

61 The existing facilities shall be considered in relationship to their location and the extent of their use,
62 and their failure to meet any of these general considerations shall not necessarily be deemed a cause for
63 determining them inadequate. *Nothing herein shall be construed to allow the judge or judges of any*
64 *court to require a county or city to erect a replacement or additional courthouse where the existing*
65 *courthouse has not been found by such panel to endanger the health, welfare and safety of the residents*
66 *of the Commonwealth.*

67 In making their recommendations, the panel may consult recognized national standard works in the
68 field.

69 All costs, fees and expenses of the five-member panel, after approval by the appointing judge, shall
70 be paid by the county or city requesting its appointment.

71 C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or
72 ~~otherwise insufficient~~, or having been in such condition, that the necessary repairs have been made, the
73 court shall vacate the order. If the court finds that the court facilities are insecure or out of repair or
74 ~~otherwise insufficient~~, it shall issue its mandamus as provided in subsection A.

75 D. Appeals shall be allowed to the Supreme Court of Virginia as appeals from courts of equity are
76 allowed.