

023803856

## HOUSE BILL NO. 61

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns  
on February 8, 2002)

(Patron Prior to Substitute—Delegate Morgan)

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

**Be it enacted by the General Assembly of Virginia:**

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

§ 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~~, *pose a danger to the health, welfare and safety of court employees or the public*, 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~~, *safe* 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, *after consideration of such matters as set forth in subdivisions 1 through 4 of this subsection*, the court facilities are in fact insecure or out of repair or otherwise ~~insufficient~~, *pose a danger to the health, welfare and safety of court employees or the public* and the extent to which repairs, if any, are necessary.

Before a mandamus is issued, if the concerned governing body ~~requests~~ *elects, or if the pleadings allege that the court facilities are in fact insecure or out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, or that a replacement or additional courthouse may be needed*, the ~~circuit court judge hearing the matter~~ *local governing body* shall appoint a five-member panel, *three of whom shall be* qualified by training and experience *as either an architect or a professional engineer, not representing the same firms*, to review the court facilities in question and make recommendations to the *local governing body and circuit court judge assigned by the Chief Justice* 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, prison holding areas, and public information areas; and
4. Comfort, safety and obsolescence of the existing facility or any part thereof.

The existing facilities shall be considered in relationship to their location and the extent of their use, and their failure to meet any of these general considerations shall not necessarily be deemed a cause for determining them inadequate.

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

All costs, fees and expenses of the five-member panel, after approval by the ~~appointing judge~~ *local governing body*, shall be paid by the county or city ~~requesting its appointment~~ *that appointed the panel*.

C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or otherwise ~~insufficient~~ *unsafe*, or having been in such condition, that the necessary repairs have been made, the court shall vacate the order. If the court finds that the court facilities are insecure or out of repair or otherwise ~~insufficient~~ *unsafe*, it shall issue its mandamus as provided in subsection A. *No mandamus shall require a county or city to erect a replacement or additional courthouse unless such replacement or additional courthouse has been recommended by the panel appointed pursuant to the provisions of subsection B.*

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