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HOUSE BILL NO. 42

Offered January 14, 2004

Prefiled December 2, 2003

A BILL to amend and reenact § 16.1-69.55 of the Code of Virginia, relating to retention of records and enforcement limitations on judgments.

 Patron—Reese

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-69.55 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-69.55. Retention of case records; limitations on enforcement of judgments; extensions.

A. Criminal and traffic infraction proceedings:

1. In misdemeanor and traffic infraction cases, all documents shall be retained for 10 years, including cases sealed in expungement proceedings under § 19.2-392.2. Documents in misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

2. In felony cases which are certified to the grand jury, all documents shall be certified to the clerk of the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall be handled as provided in subdivision A 1 of this section;

3. Dockets and indices shall be retained for 10 years.

B. Civil proceedings:

1. All documents in civil proceedings in district court which are dismissed, including dismissal under § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records. Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil proceedings in which no service of process is had 24 months after the last return date;

2. ~~In~~*Except as provided in subdivision 4*, in civil actions which result in a judgment all documents in the possession of the general district court shall be retained for 10 years and, unless sooner satisfied, the judgment shall remain in force for a period of 10 years;

3. In civil cases which are either removed or appealed to the circuit court pursuant to §§ 16.1-92 and 16.1-112 respectively, all documents pertaining thereto shall be transferred to the circuit court in accordance with those sections;

4. In civil cases in which the general district court has granted the motion by the plaintiff for extension of the limitation of enforcement of judgment and upon payment of the circuit court docketing and indexing fees on judgments from other courts and filing fees, all documents associated with the case and the fees described herein shall be forwarded to the circuit court having jurisdiction in the same geographic area as the general district court and docketed therein. Such judgment, upon docketing, as described above, shall thereafter be treated as a judgment of the circuit court. Upon the docketing of an abstract of judgment in circuit court, the limitation for the enforcement of that district court judgment in circuit court shall be the same as for a judgment of a circuit court, regardless of the disposition of the documents in the case in district court; in all other respects, such judgments shall be treated as are other district court judgments. If an abstract of judgment has been docketed in circuit court, the judgment creditor may extend the limitation for the enforcement of judgment or the revival of a judgment in circuit court pursuant to § 8.01-251, as if the abstract of the district court judgment docketed in the circuit court were a circuit court judgment. *Judgments in general district court civil cases may be docketed in the circuit court having jurisdiction in the same geographic area as the general district court by filing in the circuit court an abstract of the judgment and paying all applicable docketing, indexing and filing fees prior to the expiration of 10 years from the date of judgment. In cases wherein the judgment is so docketed, the clerk of the general district court that rendered the judgment, upon petition by a party prior to the expiration of 10 years from the date of judgment and proof of docketing in the circuit court, shall retain the records of the case for 20 years from the date of its filing and the limitation for the enforcement of the judgment in the district court shall be the same as for a judgment of a circuit court. If a district court judgment has been docketed in the circuit court in accordance with this subdivision, the judgment creditor may extend the limitation for enforcing such judgment pursuant to § 8.01-251;*

5. Dockets for civil cases shall be retained for 10 years;

6. Indices in civil cases shall be retained for 10 years. *A separate index shall be maintained for those judgments whose execution has been extended pursuant to subdivision 4.*

INTRODUCED

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- 59 C. Juvenile and domestic relations district court proceedings:
- 60 1. In adult criminal cases, all records shall be retained as provided in subdivision A 1 of this section;
- 61 2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;
- 62 3. In all cases involving support arising under Titles 16.1, 20 or 63.2, all documents and indices shall
- 63 be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have
- 64 elapsed from either dismissal or termination of the case by court order or by operation of law. Financial
- 65 records in connection with such cases shall be subject to the provisions of § 16.1-69.56;
- 66 4. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents
- 67 pertaining thereto shall be transferred to circuit court;
- 68 5. All dockets in juvenile cases shall be governed by the provisions of § 16.1-306 F.