

2004 SESSION

INTRODUCED

040724256

HOUSE BILL NO. 865

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend the Code of Virginia by adding a section numbered 19.2-70.1, relating to issuance of warrants against law-enforcement officers.

Patron—Byron

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-70.1 as follows:

§ 19.2-70.1. Law-enforcement officer entitled to hearing before issuance by magistrate of warrant for his arrest.

Before an arrest warrant or summons may be issued against any law-enforcement officer, as defined in § 9.1-101, pursuant to a complaint made to a magistrate alleging that the law-enforcement officer committed a misdemeanor or felony while he was in the performance of his official duties, a hearing shall be held before a district court to determine if sufficient cause exists for the issuance thereof. If the court finds sufficient cause, it shall issue a warrant or summons, as appropriate.

The magistrate receiving any such complaint against a law-enforcement officer shall forthwith present it to the attorney for the Commonwealth having jurisdiction who shall forthwith set the charge or complaint for hearing before the district court for the city or county where the criminal conduct allegedly occurred. All parties testifying at the hearing shall do so under oath. The accused shall have the right to enter an appearance at the hearing, represented by legal counsel at his own expense, to hear the accusations and evidence against him. The accused may present evidence and testimony. The court shall set conditions of bail upon a finding of sufficient cause for arrest.

Nothing in this section shall require a hearing prior to determination of sufficient cause to issue an arrest warrant or summons by a district or circuit court when such warrant or summons is sought directly from the court.

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