

064405340

HOUSE BILL NO. 1022

House Amendments in [] - February 1, 2006

A *BILL to amend and reenact § 19.2-266.2 of the Code of Virginia, relating to timing of defense objections in general district court.*

Patron Prior to Engrossment—Delegate Hurt

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-266.2 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-266.2. Defense objections to be raised before trial; hearing; bill of particulars.

A. Defense motions or objections seeking (i) suppression of evidence on the grounds such evidence was obtained in violation of the provisions of the Fourth, Fifth or Sixth Amendments to the Constitution of the United States or Article I, Section 8, 10 or 11 of the Constitution of Virginia proscribing illegal searches and seizures and protecting rights against self-incrimination; (ii) dismissal of a warrant, information, or indictment or any count or charge thereof on the ground that: (a) the defendant would be deprived of a speedy trial in violation of the provisions of the Sixth Amendment to the Constitution of the United States, Article I, Section 8 of the Constitution of Virginia, or § 19.2-243; or (b) the defendant would be twice placed in jeopardy in violation of the provisions of the Fifth Amendment to the Constitution of the United States or Article I, Section 8 of the Constitution of Virginia; or (iii) dismissal of a warrant, information, or indictment or any count or charge thereof on the ground that a statute upon which it was based is unconstitutional shall be raised by motion or objection.

B. *Such a motion or objection in a proceeding in circuit court shall be raised in writing, before trial. The motions or objections shall be filed and notice given to opposing counsel not later than seven days before or, if made under clause (ii), at such time prior to trial as the grounds for the motion or objection shall arise, whichever occurs last trial in circuit court.* A hearing on all such motions or objections shall be held not later than three days prior to trial, unless such period is waived by the accused, as set by the trial judge. The *circuit* court may, however, for good cause shown and in the interest of justice, permit the motions or objections to be raised at a later time.

C. To assist the defense in filing such motions or objections in a timely manner, the ~~trial~~ *circuit* court shall, upon motion of the defendant, direct the Commonwealth to file a bill of particulars pursuant to § 19.2-230. The ~~trial~~ *circuit* court shall fix the time within which such bill of particulars is to be filed. Upon further motion of the defendant, the ~~trial~~ *circuit* court may, upon a showing of good cause, direct the Commonwealth to supplement its bill of particulars. The attorney for the Commonwealth shall certify that the matters stated in the bill of particulars are true and accurate to the best of his knowledge and belief.

D. *In a criminal proceeding in district court, any motion or objection as described in subsection A may be raised prior to or at trial. In the event such a motion or objection is raised at trial, the district court [may shall] grant a continuance [for good cause shown upon motion of the Commonwealth] .*

ENGROSSED

HB1022E