VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 19.2-143 of the Code of Virginia, relating to recognizance bonds; default.

[S 381]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-143 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-143. Where default recorded; process on recognizance; forfeiture on recognizance; when copy may be used; cash bond.

When a person, under recognizance in a case, either as party or witness, fails to perform the condition of appearance thereof, if it is to appear before a court of record, or a district court, a hearing shall be held upon reasonable notice to all parties affording them opportunity to show cause why the recognizance or any part thereof should not be forfeited. The show cause notice shall be issued within 45 days of the breach of the condition of appearance.

If the court finds the recognizance or any part thereof should be forfeited, the default shall be recorded therein, unless~~,~~ the defendant or juvenile is brought before the court within 60 days of the findings of default. After 60 days of the finding of default, his default shall be recorded therein, and if it is to appear before a district court, his default shall be entered by the judge of such court, on the case papers unless the defendant or juvenile has been delivered or appeared before the court. The process on any such forfeited recognizance shall be issued from the court before which the appearance was to be, and wherein such forfeiture was recorded or entered. Any such process issued by a judge ~~when the penalty of the recognizance so forfeited is in excess of the maximum jurisdictional amount specified in § 16.1-77 (1) shall be made returnable to the circuit court of his county or city, and when not in excess of such amount it~~ shall be made returnable before, and tried by, such judge, who shall promptly transmit to the clerk of the circuit court of his county or city wherein deeds are recorded an abstract of such judgment as he may render thereon, which shall be forthwith docketed by the clerk of such court.

If the defendant or juvenile appears before or is delivered to the court within 12 months of the findings of default, the court shall remit any bond previously ordered forfeited by the courts, less such costs as the court may direct.

If it is brought to the attention of the court that the defendant or juvenile is incarcerated in another state or country within 48 months of the finding of default, thereby preventing his delivery or appearance within that period, the court shall remit any bond previously ordered forfeited. If the defendant or juvenile left the Commonwealth with the permission of the court, the bond shall be remitted without deduction of costs; otherwise, the cost of returning him to the Commonwealth shall be deducted from the bond.

Evidence that the defendant or juvenile is incarcerated or subject to court process in another jurisdiction on the day his appearance is required or a medical certificate from a duly licensed physician that the defendant was physically unable to so appear shall be considered evidence of good cause why the recognizance should not be forfeited.

If such recognizance so forfeited is not for such appearance, process thereon shall be issued from the court in which it was taken, or the court to which it was made returnable, and in a proceeding in one court on a recognizance entered in another a copy thereof shall be evidence in like manner as the original would be if it had been entered in the court wherein the proceeding is being had thereon.

However, when any defendant or juvenile who posted a cash bond and failed to appear is tried in his absence and is convicted, the court or judge trying the case shall first apply the cash bond, or so much thereof as may be necessary, to the payment of any fines or costs, or both, adjudged against the defendant or juvenile or imposed by law. Any remaining funds shall be forfeited without further notice. However, if a rehearing is granted, the court may remit part or all of such cash bond not applied ultimately to fines or costs, and order a refund of the same by the State Treasurer, but only if good cause is shown.

If the defendant or juvenile posted a cash bond and failed to appear, but is not tried in his absence, the bond shall be forfeited promptly without further notice. However, if the defendant or juvenile appears in court within 60 days after the bond is forfeited, the judge may remit part or all of any bond previously forfeited and order a refund of the same by the State Treasurer.