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**HOUSE BILL NO. 2425**

Offered January 10, 2007

Prefiled January 9, 2007

*A BILL to amend and reenact §§ 16.1-69.55, 16.1-77.1, 16.1-77.2, 16.1-107, 16.1-122 and 55-232 of the Code of Virginia and to repeal §§ 8.01-127, 8.01-127.1 and 16.1-92 of the Code of Virginia, relating to the elimination of the right to remove a matter from the general district court to the circuit court.*

Patron—Griffith

Referred to Committee for Courts of Justice

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

**1. That §§ 16.1-69.55, 16.1-77.1, 16.1-77.2, 16.1-107, 16.1-122 and 55-232 of the Code of Virginia are 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 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 that~~ are ~~either removed or~~ appealed to the circuit court pursuant to ~~§§ 16.1-92 and 16.1-112 respectively~~ § 16.1-112, all documents pertaining thereto shall be transferred to the circuit court in accordance with those sections;

4. The limitations on enforcement of general district court judgments provided in § 16.1-94.1 shall not apply if the plaintiff, prior to the expiration of that period for enforcement, pays the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. After the expiration of the period provided in § 16.1-94.1, executions on such docketed civil judgments may issue from the general district court wherein the judgment was obtained upon the filing in the general district court of an abstract from the circuit court. In all other respects, the docketing of a general district court judgment in a circuit court confers upon such judgment the same status as if the judgment were a circuit court judgment;

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

6. Indices in civil cases shall be retained for 10 years.

C. Juvenile and domestic relations district court proceedings:

1. In adult criminal cases, all records shall be retained as provided in subdivision A 1 of this section;

2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;

3. In all cases involving support arising under Titles 16.1, 20 or 63.2, all documents and indices shall be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have elapsed from either dismissal or termination of the case by court order or by operation of law. Financial records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

4. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents pertaining thereto shall be transferred to circuit court;

5. All dockets in juvenile cases shall be governed by the provisions of § 16.1-306 F.

§ 16.1-77.1. When general district court may give judgment on forthcoming bond; removal of case.

A general district court may, on motion, after ten days' notice of the time and place thereof, give judgment on any forthcoming bond taken by a sheriff or other officer upon a fieri facias issued by such

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59 court. Any such case meeting the requirements of ~~§ 16.1-92~~ may be removed to the circuit court in  
60 accordance with the procedures prescribed by that section.

61 § 16.1-77.2. Jurisdiction of partition of personal property and proceedings therefor.

62 Every general district court shall have jurisdiction of proceedings for partition of personal property,  
63 within the limits as to value and in accordance with the provisions hereinafter contained.

64 When joint owners of personal property of the value of more than twenty dollars but not more than  
65 maximum jurisdictional limits of the court as provided in § 16.1-77 (1) cannot agree upon a partition  
66 thereof, any party in interest may compel partition, the proceeding for which shall be commenced by a  
67 petition presented to a general district court as prescribed in subsection 5 of § 8.01-262. A copy of the  
68 petition, together with a notice of the time and place the petitioner will ask for a hearing thereon, shall  
69 be served on each of the defendants at least ten days prior to the day of hearing. The court shall hear  
70 and decide the matter without the appointment or use of commissioners.

71 Any such case meeting the requirements of ~~§ 16.1-92~~ may be removed to the circuit court in  
72 accordance with procedures prescribed by that section.

73 Any party aggrieved by a final judgment rendered by the general district court in any such  
74 proceeding shall have an appeal of right to any circuit court of the county or city having jurisdiction of  
75 appeals from such general district court, to be perfected within the time, and in all other respects in  
76 accordance with the provisions of law concerning appeals from general district courts in other civil  
77 cases.

78 § 16.1-107. Requirements for appeal.

79 No appeal shall be allowed unless and until the party applying for the same or someone for him  
80 shall give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there  
81 is one, to abide by such judgment as may be rendered on appeal if such appeal is perfected, or if not so  
82 perfected, then to satisfy the judgment of the court in which it was rendered. *Such bond shall be posted*  
83 *within 30 days from the date of judgment.* However, no appeal bond shall be required of a plaintiff in a  
84 civil case where the defendant has not asserted a counterclaim, the Commonwealth or when an appeal is  
85 proper to protect the estate of a decedent, an infant, a convict, or an insane person, or the interest of a  
86 county, city, town or transportation district created pursuant to Chapter 45 (§ 15.2-4500 et seq.) of Title  
87 15.2 *In all civil cases, except trespass, ejectment or any action involving the recovering rents, no*  
88 *indigent person shall be required to post an appeal bond.*

89 If such bond is furnished by or on behalf of any party against whom judgment has been rendered for  
90 money or property or both, the bond shall be conditioned for the performance and satisfaction of such  
91 judgment or order as may be entered against such party on appeal, and for the payment of all costs and  
92 damages which may be awarded against him in the appellate court. If the appeal is by a party against  
93 whom there is no recovery except for costs, the bond shall be conditioned for the payment of such costs  
94 and damages as may be awarded against him on the appeal.

95 In addition to the foregoing, any party applying for appeal shall, within 30 days from the date of the  
96 judgment, pay to the clerk of the court from which the appeal is taken the amount of the writ tax of the  
97 court to which the appeal is taken and costs as required by subdivision A 13 of § 17.1-275, including all  
98 fees for service of process of the notice of appeal in the circuit court pursuant to § 16.1-112.

99 § 16.1-122. Appeal.

100 If the money or property claimed in any such proceeding is more than \$4,500 in value, the  
101 proceeding may be removed to a circuit court and heard and disposed of therein as provided in  
102 ~~§ 16.1-92~~. If the property or money claimed in any such proceeding is more than fifty dollars in value,  
103 an appeal of right may be had to the judgment or order of the court as provided in § 16.1-106. The  
104 limits for removal of cases under the Tort Claims Act (§ 8.01-195.1 et seq.) shall be governed by the  
105 jurisdictional amounts set forth in that act.

106 § 55-232. Procedure when distress levied and tenant unable to give forthcoming bond; what defense  
107 may be made.

108 A. On affidavit by a tenant, whose property has been levied on under a warrant of distress, that (i)  
109 he is unable to give the bond required in § 8.01-526 and (ii) he has a valid defense under subsection B  
110 of this section, ~~or has the right to remove the action to the circuit court under § 16.1-92~~, the officer  
111 levying the warrant shall permit the property to remain in the possession and at the risk of the tenant,  
112 and shall return the warrant forthwith, together with the affidavit, to the court to which such warrant is  
113 returnable. Thereupon the landlord, after ten days' notice in writing to the tenant, may make a motion  
114 before such court for a judgment for the amount of the rent and for a sale of the property levied on, as  
115 aforesaid. The tenant may make such defense as he is authorized to make, including defenses permitted  
116 under such subsection B to an action or motion on the bond when one is given; ~~or he may remove the~~  
117 ~~case to the circuit court under § 16.1-92~~. Upon making such defense, ~~or the removal of the case to the~~  
118 ~~circuit court~~, the officer shall permit the property to remain in the possession of and at the risk of the  
119 tenant. However, if the amount in controversy is in excess of \$1,000, removal to the circuit court shall  
120 be conditional upon the tenant's giving a forthcoming bond, with sufficient corporate or cash surety, in a

121 penalty double the amount in controversy, with condition to pay any judgment rendered against the  
122 tenant, and all costs and damages which may accrue to the landlord as a result of any delay caused by  
123 such removal. If the property is perishable, or expensive to keep, the court, or the judge thereof in  
124 vacation, may order it to be sold, and on the final trial of the cause, the court shall dispose of the  
125 property, or proceeds of sale, according to the rights of the parties.

126 B. In an action or motion on a forthcoming bond, when it is taken under a distress warrant, the  
127 defendants may make defense on the ground that the distress was for rent not due in whole or in part,  
128 or was otherwise illegal.

129  
130 2. That §§ 8.01-127, 8.01-127.1 and 16.1-92 of the Code of Virginia are repealed.