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SENATE BILL NO. 825

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 24, 2007)

(Patrons Prior to Substitute—Senators Devolites Davis and Stolle [SB 1173])

A *BILL to amend and reenact §§ 19.2-124 and 19.2-132 of the Code of Virginia, relating to appeal bonds.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-124 and 19.2-132 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-124. Appeal from order denying bail or fixing terms of bond or recognizance.

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal therefrom successively to the next higher court or judge thereof, up to and including the Supreme Court of Virginia or any justice thereof where permitted by law.

B. If a court grants bail to a person or fixes a term of recognizance under this article over the objection of the attorney for the Commonwealth, the attorney for the Commonwealth may appeal therefrom successively to the next higher court or judge thereof, up to and including the Supreme Court of Virginia or any justice thereof.

C. *No filing or service fees shall be assessed or collected for any appeal taken pursuant to this section.*

§ 19.2-132. Motion to increase amount of bond fixed by magistrate or clerk; when bond may be increased.

A. Although a person has been admitted to bail, if the amount of any bond is subsequently deemed insufficient, or the security taken inadequate, or if it appears that bail should have been denied, the attorney for the Commonwealth of the county or city in which the person is held for trial may, on reasonable notice to the person and to any surety on the bond of such person, move the court, or the appropriate judicial officer to increase the amount of such bond or to revoke bail. The court may, in accordance with subsection B, grant such motion and may require new or additional sureties therefor, or both or revoke bail. Any surety in a bond for the appearance of such person may take from his principal collateral or other security to indemnify such surety against liability. The failure to notify the surety will not prohibit the court from proceeding with the bond hearing.

B. Subsequent to an initial appearance before any judicial officer where the conditions of bail have been determined, no person, after having been released on a bond, shall be subject to a motion to increase such bond or revoke bail unless (i) the person has violated a term or condition of his release, or is convicted of or arrested for a felony or misdemeanor, or (ii) the attorney for the Commonwealth presents evidence that incorrect or incomplete information regarding the person's family ties; employment; financial resources; length of residence in the community; record of convictions; record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness, juror, or victim; or other information relevant to the bond determination was relied upon by the court or magistrate establishing initial bond.

C. *No filing or service fees shall be assessed or collected for any motion made pursuant to this section.*