

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 54

An Act to amend and reenact § 17.1-402 of the Code of Virginia, relating to Court of Appeals of Virginia; en banc hearings.

[H 945]

Approved February 29, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-402 of the Code of Virginia is amended and reenacted as follows:

§ 17.1-402. Sessions; panels; quorum; presiding judges; hearings en banc.

A. The Court of Appeals shall sit at such locations within the Commonwealth as the chief judge, upon consultation with the other judges of the court, shall designate so as to provide, insofar as feasible, convenient access to the various geographic areas of the Commonwealth. The chief judge shall schedule sessions of the court as required to discharge expeditiously the business of the court.

B. The Court of Appeals shall sit in panels of at least three judges each. The presence of all judges in the panel shall be necessary to constitute a quorum. The chief judge shall assign the members to panels and, insofar as practicable, rotate the membership of the panels. The chief judge shall preside over any panel of which he is a member and shall designate the presiding judges of the other panels.

C. Each panel shall hear and determine, independently of the others, the petitions for appeal and appeals granted in criminal cases and the other cases assigned to that panel.

D. The Court of Appeals shall sit en banc (i) when there is a dissent in the panel to which the case was originally assigned and an aggrieved party requests an en banc hearing and at least ~~three~~ *other four* judges of the court vote in favor of such a hearing or (ii) when any judge of any panel shall certify that in his opinion a decision of such panel of the court is in conflict with a prior decision of the court or of any panel thereof and three other judges of the court concur in that view. The court may sit en banc upon its own motion at any time, in any case in which a majority of the court determines it is appropriate to do so. The court sitting en banc shall consider and decide the case and may overrule any previous decision by any panel or of the full court.

E. The court may sit en banc with no fewer than eight judges. In all cases decided by the court en banc, the concurrence of at least a majority of the judges sitting shall be required to reverse a judgment, in whole or in part.