VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 146

An Act to amend and reenact § 19.2-319 of the Code of Virginia, relating to remand by appellate court of an appeal of bail.

[S 225]

Approved March 2, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-319 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-319. When execution of sentence to be suspended; bail; appeal from denial.

If a person sentenced by a circuit court to death or confinement in the state correctional facility indicates an intention to apply for a writ of error, the circuit court shall postpone the execution of such sentence for such time as it may deem proper.

In any other criminal case wherein judgment is given by any court to which a writ of error lies, and in any case of judgment for any civil or criminal contempt, from which an appeal may be taken or to which a writ of error lies, the court giving such judgment may postpone the execution thereof for such time and on such terms as it deems proper.

In any case after conviction if the sentence, or the execution thereof, is suspended in accordance with this section, or for any other cause, the court, or the judge thereof, may, and in any case of a misdemeanor shall, set bail in such penalty and for appearance at such time as the nature of the case may require; provided that, if the conviction was for a violent felony as defined in § 19.2-297.1 and the defendant was sentenced to serve a period of incarceration not subject to suspension, then the court shall presume, subject to rebuttal, that no condition or combination of conditions of bail will reasonably assure the appearance of the convicted person or the safety of the public.

In any case in which the court denies bail, the reason for such denial shall be stated on the record of the case. A writ of error from the Court of Appeals shall lie to any such judgment refusing bail or requiring excessive bail, except that in any case where a person has been sentenced to death, a writ of error shall lie from the Supreme Court. Upon review by the Court of Appeals or the Supreme Court, if the decision by the trial court to deny bail is overruled, the appellate court shall *either* set bail *or remand the matter to circuit court for such further action regarding bail as the appellate court directs.*