

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4  
5 Approved  
6

[S 605]

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

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

9 § 17.1-402. Sessions; panels; quorum; presiding judges; hearings en banc.

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

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

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

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

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