

VIRGINIA ACTS OF ASSEMBLY -- 2009 RECONVENED SESSION

CHAPTER 876

An Act to amend and reenact §§ 24.2-235 and 24.2-238 of the Code of Virginia, relating to removal of public officials; procedures; costs.

[S 1394]

Approved May 6, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-235 and 24.2-238 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-235. Procedure.

A petition for the removal of an officer shall state with reasonable accuracy and detail the grounds or reasons for removal and shall be signed by the person or persons making it under penalties of perjury. *The circuit court shall not dismiss the petition solely because of an error or omission in the form of the petition relating to its statement of the grounds or reasons for removal if such error or omission is not material in determining whether the statement of the grounds or reasons for removal provides a reasonable basis under § 24.2-233 to consider the removal of the officer.*

As soon as the petition is filed with the court, the court shall issue a rule requiring the officer to show cause why he should not be removed from office, the rule alleging in general terms the cause or causes for such removal. The rule shall be returnable in not less than five nor more than ten days and shall be served upon the officer with a copy of the petition. Upon return of the rule duly executed, unless good cause is shown for a continuance or postponement to a later day in the term, the case shall be tried on the day named in the rule and take precedence over all other cases on the docket. If upon trial it is determined that the officer is subject to removal under the provisions of § 24.2-233, he shall be removed from office.

§ 24.2-238. Costs.

A. If a judicial proceeding under this article is dismissed in favor of the respondent, the court in its discretion may require the state agency or political subdivision which the respondent serves to pay court costs or reasonable attorney fees, or both, for the respondent.

B. *No person who signs a petition for the removal of an official pursuant to § 24.2-233 or who circulates such a petition (i) shall be liable for any costs associated with removal proceedings conducted pursuant to the petition, including attorney fees incurred by any other party or court costs, or (ii) shall have sanctions imposed against him pursuant to § 8.01-271.1.*