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SENATE BILL NO. 369

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend the Code of Virginia by adding a section numbered 19.2-264.3:1.3, relating to the appointment of experts to assist in the defense of indigent defendants in capital cases.

Patron—Watkins

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-264.3:1.3 as follows:

§ 19.2-264.3:1.3. Expert assistance for indigent defendants in capital cases.

A. In any case in which the defendant (i) is charged with a capital offense and (ii) is found by the court to be financially unable to pay for expert assistance, the defendant or his attorney may move for the appointment of a qualified expert to assist in the preparation of the defendant's defense. The motion shall be heard ex parte as soon as practicable and, after a hearing upon the motion, the court may order the appointment of a qualified expert. Any expert appointed pursuant to this subsection shall be compensated in accordance with § 19.2-332.

B. Any report, analysis, evaluation, or other work product made by an expert appointed pursuant to subsection A shall be subject to attorney-client privilege. Nothing in this subsection shall affect the duty of the defendant to adequately and fully provide discovery as provided under Rule 3A:11 of the Rules of the Supreme Court.

C. This section does not apply to the appointment of a mental health expert pursuant to § 19.2-264.3:1 or 19.2-264.3:1.2.

INTRODUCED

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