

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 303

An Act to amend and reenact § 16.1-131.1 of the Code of Virginia, relating to constitutionality of local ordinances.

[H 618]

Approved April 9, 2010

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-131.1 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-131.1. Procedure when constitutionality of a statute is challenged in a court not of record.

In any criminal or traffic case in a court not of record, if the court rules that a statute or local ordinance is unconstitutional, it shall upon motion of the Commonwealth, *or the locality if a local ordinance is the subject of the ruling*, stay the proceedings and issue a written statement of its findings of law and relevant facts, if any, in support of its ruling and shall transmit the case, together with all papers, documents, and evidence connected therewith, to the circuit court for a determination of constitutionality. Either party may file a brief with the circuit court. Either party may request oral argument before the circuit court. The circuit court shall give the issue priority on its docket. If the circuit court rules that the statute or local ordinance is unconstitutional, the Commonwealth *or the locality* may appeal such interlocutory order to the Court of Appeals and thereafter to the Supreme Court; however, if the circuit court rules that the statute or local ordinance is constitutional, the circuit court shall remand the case to the court not of record for trial consistent with the ruling of the circuit court.