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**HOUSE BILL NO. 1286**

Offered January 21, 2010

*A BILL to amend and reenact § 19.2-71 of the Code of Virginia, relating to restrictions on issuance of process of arrest by a magistrate.*

Patrons—Ward, Miller, P.J., Abbott, BaCote and Gilbert

Referred to Committee for Courts of Justice

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

**1. That § 19.2-71 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-71. Who may issue process of arrest.

A. Process for the arrest of a person charged with a criminal offense may be issued by the judge, or clerk of any circuit court, any general district court, any juvenile and domestic relations district court, or any magistrate as provided for in Chapter 3 (§ 19.2-26 et seq.) of this title. However, no magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer without prior ~~consultation by the magistrate~~ *with authorization by the attorney* for the Commonwealth or, if no attorney for the Commonwealth is available, without prior ~~consultation~~ *with authorization by a law-enforcement agency having jurisdiction over the alleged offense.*

B. No law-enforcement officer shall seek issuance of process by any judicial officer, for the arrest of a person for the offense of capital murder as defined in § 18.2-31, without prior authorization by the attorney for the Commonwealth. Failure to comply with the provisions of this subsection shall not be (i) a basis upon which a warrant may be quashed or deemed invalid, (ii) deemed error upon which a conviction or sentence may be reversed or vacated, or (iii) a basis upon which a court may prevent or delay execution of sentence.

INTRODUCED

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