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HOUSE BILL NO. 2092

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact § 53.1-232.1 of the Code of Virginia, relating to death sentence execution dates.

Patron—Herring

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-232.1 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-232.1. When execution dates required.

In a criminal case where a sentence of death has been imposed, the trial court shall set an execution date when it is notified the setting of an execution date is requested in writing by the Attorney General or the attorney for the Commonwealth, and the court finds that: (i) the Supreme Court of Virginia has denied habeas corpus relief or the time for filing a timely habeas corpus petition in that Court has passed without such a petition being filed, time for seeking federal habeas corpus review has expired or (ii) the Supreme Court of the United States has issued a final order disposing of the case after granting a stay to review the judgment of the Supreme Court of Virginia on habeas corpus, (iii) the United States Court of Appeals has affirmed the denial of federal habeas corpus relief or the time for filing a timely appeal in that court has passed without such an appeal being filed, or (iv) the Supreme Court of the United States has issued a final order after granting a stay in order to dispose of the petition for a writ of certiorari to review the judgment of the United States Court of Appeals that sought review of the judgment of the United States Court of Appeals denying federal habeas corpus relief.

The trial court shall conduct a proceeding to set the date within ten days after receiving the written notice request from the Attorney General or the attorney for the Commonwealth. The execution date shall be set by the trial court in accordance with the provisions of §§ 53.1-232 and 53.1-234, but in any event shall be no later than sixty days after the date of the proceeding. Nothing in this provision shall prohibit the trial court from setting an execution date under circumstances other than those specified herein. Once an execution date is scheduled pursuant to this section, a stay of execution may be granted by the trial court or the Supreme Court of Virginia only upon a showing of substantial grounds for habeas corpus relief.

INTRODUCED

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