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HOUSE BILL NO. 1483

Offered January 9, 2013

Prefiled January 2, 2013

A BILL to amend and reenact §§ 16.1-69.55, 16.1-94.1, 16.1-112, and 16.1-296.2 of the Code of Virginia, relating to record on appeal from district court.

Patron—Iaquinto

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.55, 16.1-94.1, 16.1-112, and 16.1-296.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.55. Retention of case records; limitations on enforcement of judgments; extensions.**A. Criminal and traffic infraction proceedings:**

1. In misdemeanor and traffic infraction cases, except misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 10 years, including cases sealed in expungement proceedings under § 19.2-392.2. In misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 20 years. In misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-370.1, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50 years. Documents in misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

2. In felony cases which are certified to the grand jury, all documents shall be certified to the clerk of the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall be handled as provided in subdivision A 1 of this section;

3. Dockets and indices shall be retained for 10 years.

B. Civil proceedings:

1. All documents in civil proceedings in district court which are dismissed, including dismissal under § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records. Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil proceedings in which no service of process is had 24 months after the last return date;

2. In civil actions which result in a judgment all documents in the possession of the general district court shall be retained for 10 years and, unless sooner satisfied, the judgment shall remain in force for a period of 10 years;

3. In civil cases that are appealed to the circuit court pursuant to § 16.1-112, all documents pertaining thereto shall be transferred to the circuit court in accordance with ~~those sections~~ § 16.1-112 and all other documents contained in the case file that are to be retained by the general district court in accordance with § 16.1-112 shall be retained for 10 years;

4. At the conclusion of trial, the court shall return all exhibits to the appropriate parties;

5. The limitations on enforcement of general district court judgments provided in § 16.1-94.1 shall not apply if the plaintiff, prior to the expiration of that period for enforcement, pays the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. However, a judgment debtor wishing to discharge a judgment pursuant to the provisions of § 8.01-456, when the judgment creditor cannot be located, may, prior to the expiration of that period for enforcement, pay the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. After the expiration of the period provided in § 16.1-94.1, executions on such docketed civil judgments may issue from the general district court wherein the judgment was obtained upon the filing in the general district court of an abstract from the circuit court. In all other respects, the docketing of a general district court judgment in a circuit court confers upon such judgment the same status as if the judgment were a circuit court judgment;

6. Dockets for civil cases shall be retained for 10 years;

7. Indices in civil cases shall be retained for 10 years.

C. Juvenile and domestic relations district court proceedings:

1. In adult criminal cases, all records shall be retained as provided in subdivision A 1 of this section;

2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;

3. In all cases involving support arising under Titles 16.1, 20 or 63.2, all documents and indices shall

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59 be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have
60 elapsed from either dismissal or termination of the case by court order or by operation of law. Financial
61 records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

62 4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor
63 cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370,
64 18.2-370.01, 18.2-370.1, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained
65 for 50 years;

66 5. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents
67 pertaining thereto shall be transferred to circuit court;

68 6. All dockets in juvenile cases shall be governed by the provisions of § 16.1-306 F.

69 **§ 16.1-94.1. Limitations on enforcement of district court judgments.**

70 For judgments entered in a general district court on or after January 1, 1985, no execution shall be
71 issued or action brought on such judgment, including a judgment in favor of the Commonwealth, after
72 ten 10 years from the date of such judgment except as provided in *subdivision B 5 of § 16.1-69.55 B 4.*

73 **§ 16.1-112. All papers transmitted to appellate court; further proceedings.**

74 The judge or clerk of any *general district* court from which an appeal is taken under this article shall
75 promptly transmit to the clerk of the appellate court the original warrant or warrants or other notices or
76 pleadings with the judgment endorsed thereon, together with all *other* pleadings, ~~exhibits and other~~
77 ~~papers~~ filed in the trial of the case, the required bond, and, if applicable, the money deposited to secure
78 such bond and the writ tax and costs paid pursuant to § 16.1-107, and the fees for service of process of
79 the notice of appeal in the circuit court. Upon receipt of the foregoing by the clerk of the appellate
80 court, the case shall then be docketed. *All other materials contained in the case file, including all other*
81 *documents, exhibits, or papers shall not be transmitted to the appellate court but shall be retained by*
82 *the clerk of the court from which the appeal is taken in accordance with subdivisions B 3 and B 4 of*
83 *§ 16.1-69.55.*

84 When such case has been docketed, the clerk of such appellate court shall by writing to be served, as
85 provided in §§ 8.01-288, 8.01-293, 8.01-296 and 8.01-325, or by certified mail, with certified delivery
86 receipt requested, notify the appellee, or by regular mail to his attorney, that such an appeal has been
87 docketed in his office; provided, that upon affidavit by the appellant or his agent in conformity with
88 § 8.01-316 being filed with the clerk, the clerk shall post such notice at the front door of his courtroom
89 and shall mail a copy thereof to the appellee at his last known address or place of abode or to his
90 attorney; and he shall file a certificate of such posting and mailing with the papers in the case. No such
91 appeal shall be heard unless it appears that the appellee or his attorney has had such notice, or that such
92 certificate has been filed, 10 days before the date fixed for trial, or has in person or by attorney waived
93 such notice.

94 **§ 16.1-296.2. Appeals of certain custody and visitation proceedings.**

95 A. In any matter in which a filing fee either was or could have been assessed pursuant to
96 § 16.1-69.48:5, no appeal shall be allowed unless and until the party applying for appeal shall, within 10
97 days from the entry of the final judgment or order, either (i) pay to the clerk of the court from which
98 the appeal is taken the amount of the writ tax of the court to which the appeal is taken and all other
99 applicable costs or (ii) file with the clerk of the court from which the appeal is taken a petition to have
100 the court to which the appeal is taken determine that the writ tax and costs need not be paid on account
101 of poverty as provided in § 17.1-606. The judge or clerk of any court from which the appeal is taken
102 shall promptly transmit to the clerk of the appellate court the ~~original~~ pleadings, ~~together with all~~
103 ~~exhibits and other papers filed in the trial of~~ *for the case being appealed*, and either (i) (a) the writ tax
104 and costs paid or (ii) (b) a petition filed to have the court to which the appeal is taken determine that
105 the writ tax and costs need not be paid on account of poverty as provided in § 17.1-606. Upon receipt
106 of the foregoing by the clerk of the appellate court, the case shall then be docketed.

107 B. Notwithstanding any other provision of law, the writ tax of the court to which the appeal is taken
108 and other applicable costs shall be assessed only once for all custody and visitation petitions
109 simultaneously appealed by a single appellant.