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SENATE BILL NO. 1202

Offered January 9, 2013

Prefiled January 9, 2013

A *BILL to amend and reenact § 16.1-69.55 of the Code of Virginia, relating to record retention in general district courts.*

Patron—McDougle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-69.55 of the Code of Virginia is 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 that~~ 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 that~~ 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 that~~ 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;

4. 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;

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

6. 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 Title~~ 16.1, 20, or 63.2, all documents and indices shall be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have elapsed from either dismissal or termination of the case by court order or by operation of law. Financial records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor

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59 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,
60 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
61 for 50 years;

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

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

65 *D. At the direction of the chief judge of a general district court, the clerk of that court may cause*
66 *any or all papers, or documents pertaining to civil and criminal cases that have been ended for a*
67 *period of three years or longer, to be destroyed if such records, papers, or documents will no longer*
68 *have administrative, fiscal, historical, or legal value to warrant continued retention, provided such*
69 *records, papers, or documents have been microfilmed or converted to an electronic format. Such*
70 *microfilm and microphotographic processes and equipment shall meet state archival microfilm standards*
71 *pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and*
72 *such records, papers, or documents so converted shall be placed in conveniently accessible files and*
73 *provisions made for examining and using the same. The provisions of this subsection shall not apply to*
74 *the documents for misdemeanor cases under §§ 16.1-253.2, 18.2-57.2, 18.2-60.4, 18.2-67.4, 18.2-67.4:1,*
75 *18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1,*
76 *18.2-387, and 18.2-387.1, which shall be retained as provided in subsection A.*