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HOUSE BILL NO. 624

Offered January 13, 2016

Prefiled January 11, 2016

A BILL to amend and reenact § 17.1-213 of the Code of Virginia, relating to retention of court records; violent felonies and acts of violence.

 Patron—Bell, Robert B.

 Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 17.1-213 of the Code of Virginia is amended and reenacted as follows:****§ 17.1-213. Disposition of papers in ended cases.**

A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in hardcopy form, either in the locality served by the circuit court where such files originated or in The Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

B. The following records for cases ending on or after January 1, 1913, shall be retained for 10 years after conclusion:

1. Conditional sales contracts;
2. Concealed weapons permit applications;
3. Minister appointments;
4. Petitions for appointment of trustee;
5. Name changes;
6. Nolle prosequi cases;
7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed under § 8.01-335, and district court appeals dismissed under § 16.1-113 prior to 1988;
8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were commenced on a felony charge but concluded as a misdemeanor;
9. Suits to enforce a lien;
10. Garnishments;
11. Executions except for those covered in § 8.01-484;
12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in the appropriate order book; and
13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving privileges.

C. All other records or cases ending on or after January 1, 1913, shall be retained subject to the following:

1. All civil case files to which subsection D does not pertain shall be retained 20 years from the court order date.
2. All criminal cases dismissed, including those not a true bill, acquittals, and not guilty verdicts, shall be retained 10 years from the court order date.
3. Except as otherwise provided in this subdivision, criminal case files involving a felony conviction and all criminal case files involving a misdemeanor conviction under § 16.1-253.2, 18.2-57.2, or 18.2-60.4 shall be retained (i) 20 years from the sentencing date or (ii) until the sentence term ends, whichever comes later. Case files involving a conviction for a sexually violent offense as defined in § 37.2-900, *a violent felony as defined in § 17.1-805, or an act of violence as defined in § 19.2-297.1* shall be retained (a) 50 years from the sentencing date or (b) until the sentence term ends, whichever comes later.

D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall be retained permanently as shall all cases in which the title to real estate is established, conveyed or condemned by an order or decree of the court. The final order for all cases in which the title to real estate is so affected shall include an appropriate notification thereof to the clerk.

E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all papers or documents pertaining to civil and criminal cases; (ii) any unexecuted search warrants and affidavits for unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such

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59 records, papers, or documents have been microfilmed or converted to an electronic format. Such
60 microfilm and microphotographic processes and equipment shall meet state archival microfilm standards
61 pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such
62 records, papers, or documents so converted shall be placed in conveniently accessible files and
63 provisions made for examining and using same. The clerk shall further provide security negative copies
64 of any such microfilmed materials for storage in The Library of Virginia.