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HOUSE BILL NO. 1765

Offered January 11, 2017

Prefiled January 9, 2017

A BILL to amend and reenact § 19.2-258 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-136.1, relating to appeal to circuit court; failure to appear.

Patron—Bulova

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-258 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-136.1 as follows:

§ 16.1-136.1. Appeal; failure to appear.

If any person convicted in a general district court, a juvenile and domestic relations district court, or a court of limited jurisdiction of an offense not felonious perfects an appeal under the provisions of this chapter and (i) fails to appear in circuit court at the time for setting the appeal for trial, (ii) fails to appear in circuit court on the trial date, or (iii) absconds from the jurisdiction, then upon motion of the attorney from the Commonwealth, or upon its own motion, the circuit court shall enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute. Fines and costs shall be collected by the circuit court, and all papers shall be retained in the circuit court clerk's office.

§ 19.2-258. Trial of misdemeanors by court without jury; failure to appear deemed waiver of jury.

In all cases of a misdemeanor upon a plea of guilty, tendered in person by the accused or his counsel, the court shall hear and determine the case without the intervention of a jury. If the accused plead not guilty, in person or by his counsel, the court, in its discretion, with the concurrence of the accused and the attorney for the Commonwealth, may hear and determine the case without the intervention of a jury. In each instance the court shall have and exercise all the powers and duties vested in juries by any statute relating to crimes and punishments.

When a person charged with a misdemeanor has been admitted to bail or released upon his own recognizance for his appearance before a court of record having jurisdiction of the case, for a hearing thereon and fails to appear in accordance with the condition of his bail or recognizance, he shall be deemed to have waived trial by a jury and the case may be heard in his absence as upon a plea of not guilty. Nothing herein shall preclude a court having jurisdiction of a case upon appeal from affirming the judgment of the lower court pursuant to § 16.1-136.1.

INTRODUCED

HB1765