

# VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

## CHAPTER 176

*An Act to amend and reenact §§ 19.2-121 and 19.2-149 of the Code of Virginia, relating to bail and recognizances; magistrate's checklist; surety's basis for request for capias.*

[H 2453]

Approved February 27, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-121 and 19.2-149 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-121. Fixing terms of bail.**

A. If the person is admitted to bail, the terms thereof shall be such as, in the judgment of any official granting or reconsidering the same, will be reasonably fixed to assure the appearance of the accused and to assure his good behavior pending trial. The judicial officer shall take into account (i) the nature and circumstances of the offense; (ii) whether a firearm is alleged to have been used in the offense; (iii) the weight of the evidence; (iv) the financial resources of the accused or juvenile and his ability to pay bond; (v) the character of the accused or juvenile including his family ties, employment or involvement in education; (vi) his length of residence in the community; (vii) his record of convictions; (viii) his appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; (ix) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness, juror, or victim; and (x) any other information available which the court considers relevant to the determination of whether the accused or juvenile is unlikely to appear for court proceedings.

*B. When a magistrate conducts a bail hearing for a person arrested on a warrant or capias for a jailable offense, the magistrate shall describe the information considered under subsection A on a form provided by the Executive Secretary of the Supreme Court and shall transmit the completed form to the circuit court or district court before which the warrant or capias is returnable.*

C. In any case where the accused has appeared and otherwise met the conditions of bail, no bond therefor shall be used to satisfy fines and costs unless agreed to by the person who posted such bond.

**§ 19.2-149. How surety on a bond in recognizance may surrender principal and be discharged from liability.**

A bail bondsman or his licensed bail enforcement agent on a bond in a recognizance may at any time arrest his principal and surrender him to the court before which the recognizance was taken or before which such principal's appearance is required, or to the sheriff, sergeant or jailer of the county or city wherein the court before which such principal's appearance is required is located; in addition to the above authority, upon the application of the surety, the court, or the clerk thereof, before which the recognizance was taken, or before which such principal's appearance is required, or any magistrate shall issue a capias for the arrest of such principal, and such capias may be executed by such bail bondsman or his licensed bail enforcement agent, or by any sheriff, sergeant or police officer, and the person executing such capias shall deliver such principal and such capias to the sheriff or jailer of the county or the sheriff, sergeant or jailer of the city in which the appearance of such principal is required, and thereupon the surety or the property bail bondsman shall be discharged from liability for any act of the principal subsequent thereto. *Upon application of the surety for a capias, the surety shall state the basis for which the capias is being requested.* Such sheriff, sergeant or jailer shall thereafter deliver such capias to the clerk of such court, with his endorsement thereon acknowledging delivery of such principal to his custody.

If a magistrate issues a capias pursuant to this section, the magistrate shall transmit a copy of the capias to the court before which such principal's appearance is required by the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.