

19105764D

HOUSE BILL NO. 2320

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 25, 2019)

(Patron Prior to Substitute—Delegate VanValkenburg)

A BILL to amend and reenact §§ 19.2-124, 19.2-130, and 19.2-132 of the Code of Virginia, relating to resetting bail, bond, and recognizance determinations; jurisdiction.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-124, 19.2-130, and 19.2-132 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-124. Appeal from bail, bond, or recognizance order.

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal the decision of the judicial officer.

If the initial bail decision on a charge brought by a warrant or district court *capias* is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the district court in which the case is pending.

If the initial bail decision on a charge brought by direct indictment or presentment or circuit court *capias* is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the circuit court in which the case is pending.

If the appeal of an initial bail decision is taken on any charge originally pending in a district court after that charge has been appealed, certified, or transferred to a circuit court, the person shall first appeal to the circuit court in which the case is pending.

Any bail decision made by a judge of a court may be appealed successively by the person to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.

The bail decision of the higher court on such appeal, unless the higher court orders otherwise, shall be remanded to the court in which the case is pending for enforcement and modification. The court in which the case is pending shall not modify the bail decision of the higher court, except upon a change in the circumstances subsequent to the decision of the higher court.

B. The attorney for the Commonwealth may appeal a bail, bond, or recognizance decision to the same court to which the accused person is required to appeal under subsection A.

C. In a matter not governed by subsection B or C of § 19.2-120 or § 19.2-120.1, the court granting or denying such bail may, upon appeal thereof, and for good cause shown, stay execution of such order for so long as reasonably practicable for the party to obtain an expedited hearing before the next higher court. When a district court grants bail over the presumption against bail in a matter that is governed by subsection B or C of § 19.2-120 or § 19.2-120.1, and upon notice by the Commonwealth of its appeal of the court's decision, the court shall stay execution of such order for so long as reasonably practical for the Commonwealth to obtain an expedited hearing before the circuit court, but in no event more than five days, unless the defendant requests a hearing date outside the five-day limit.

No such stay under this subsection may be granted after any person who has been granted bail has been released from custody on such bail.

D. No filing or service fees shall be assessed or collected for any appeal taken pursuant to this section.

§ 19.2-130. Bail in subsequent proceeding arising out of initial arrest.

A. Any person admitted to bail by a judge or clerk of a district court or by a magistrate shall not be required to be admitted to bail in any subsequent proceeding arising out of the initial arrest unless the court having jurisdiction of such subsequent proceeding deems the initial amount of bond or security taken inadequate. When the court having jurisdiction of the proceeding believes the amount of bond or security inadequate or excessive, it may change the amount of such bond or security, require new and additional sureties, or set other terms of bail as are appropriate to the case, including, but not limited to, drug and alcohol monitoring. The court may, after notice to the parties, initiate a proceeding to alter the terms and conditions of bail on its own motion.

B. Any motion to alter the terms and conditions of bail where the initial bail decision is made by a judge or clerk of a district court or by a magistrate on any charge originally pending in that district court shall be filed in that district court unless (i) a bail decision is on appeal, (ii) such charge has been transferred pursuant to § 16.1-269.1 to a circuit court, or (iii) such charge has been certified by a district court.

§ 19.2-132. Motion to increase amount of bond fixed by judicial officer; when bond may be increased.

A. If the amount of any bond fixed by a judicial officer is subsequently deemed insufficient, or the

HOUSE
SUBSTITUTE

HB2320H1

60 security taken inadequate, or if it appears that bail should have been denied or that the person has
61 violated a term or condition of his release, or has been convicted of or arrested for a felony or
62 misdemeanor, the attorney for the Commonwealth of the county or city in which the person is held for
63 trial may, on reasonable notice to the person and, if such person has been admitted to bail, to any surety
64 on the bond of such person, move the appropriate judicial officer to increase the amount of such bond
65 or to revoke bail. The court may grant such motion and may require new or additional sureties therefor,
66 or both, or revoke bail. Any surety in a bond for the appearance of such person may take from his
67 principal collateral or other security to indemnify such surety against liability. The failure to notify the
68 surety will not prohibit the court from proceeding with the bond hearing.

69 The court ordering any increase in the amount of such bond, ordering new or additional sureties, *or*
70 *both*, or revoking such bail may, upon appeal, and for good cause shown, stay execution of such order
71 for so long as reasonably practicable for such person to obtain an expedited hearing before the court to
72 which such order has been appealed.

73 *B. Any motion filed pursuant to subsection A where the initial bail decision is made by a judge or*
74 *clerk of a district court or by a magistrate on any charge originally pending in that district court shall*
75 *be filed in that district court unless (i) a bail decision is on appeal, (ii) such charge has been*
76 *transferred pursuant to § 16.1-269.1 to a circuit court, or (iii) such charge has been certified by a*
77 *district court.*