20102379D

1 **SENATE BILL NO. 771**
2 Offered January 8, 2020
3 Prefiled January 8, 2020
4 *A BILL to amend and reenact § 8.01-670.1 of the Code of Virginia, relating to interlocutory appeals;*
5 *immunity.*
6 ——————
Patron—Stanley
7 ——————
8 Referred to Committee on the Judiciary
9 ——————
10 **Be it enacted by the General Assembly of Virginia:**
11 **1. That § 8.01-670.1 of the Code of Virginia is amended and reenacted as follows:**
12 **§ 8.01-670.1. Appeal of interlocutory orders and decrees by permission; immunity.**
13 *A.* When, prior to the commencement of trial, the circuit court has entered in any pending civil
14 action, except any matters appealable to the Court of Appeals pursuant to § 17.1-405, an order or decree
15 that is not otherwise appealable, any party may file in the circuit court a ~~statement of the reasons why~~
16 ~~an immediate~~ *motion requesting that the circuit court certify such order or decree for* interlocutory
17 appeal ~~should be permitted~~.
18 The ~~statement~~ *motion* shall include a concise analysis of the statutes, rules*,* or cases believed to be
19 determinative of the issues and request that the court certify in writing that the order or decree involves
20 a question of law as to which (i) there is substantial ground for difference of opinion, (ii) there is no
21 clear, controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of
22 Appeals of Virginia, (iii) determination of the issues will be dispositive of a material aspect of the
23 proceeding currently pending before the court, and (iv) ~~the court and the parties agree~~ it is in the parties'
24 best interest to seek an interlocutory appeal. *If the request for certification is opposed by any party, the*
25 *parties may brief the motion in accordance with the Rules of the Supreme Court of Virginia.*
26 Within ~~ten~~ *15* days of *the entry of an order by the circuit court granting* such certification ~~by the~~
27 ~~circuit court~~, a petition for appeal may be filed with the appellate court that would have jurisdiction in
28 an appeal from a final judgment in the proceeding. If the appellate court determines that the certification
29 by the circuit court has sufficient merit, it may, in its discretion, permit an appeal to be taken from the
30 interlocutory order or decree and shall notify the certifying circuit court and counsel for the parties of its
31 decision. ~~No petitions or appeals under this section shall stay proceedings in the circuit court unless the~~
32 ~~circuit court or appellate court so orders.~~
33 The consideration of any petition and appeal by the appellate court shall be in accordance with the
34 applicable provisions of the Rules of the Supreme Court *of Virginia* and shall not take precedence on
35 the docket unless the court so orders.
36 *B. When, prior to the commencement of trial, the circuit court has entered in any pending civil*
37 *action an order granting or denying a plea of immunity that, if granted, would immunize the movant*
38 *from compulsory participation in the proceeding, the order is eligible for immediate appellate review.*
39 *Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for*
40 *review with the appropriate appellate court in accordance with the procedures set forth in § 8.01-626.*
41 *C. No petitions or appeals under this section shall stay proceedings in the circuit court unless the*
42 *circuit court or appellate court orders such a stay.*
43 *D. The failure of a party to seek interlocutory review under this section shall not preclude review of*
44 *the issue on appeal from a final order. An order by the appellate court denying interlocutory review*
45 *under this section shall not preclude review of the issue on appeal from a final order, unless the order*
46 *denying such interlocutory review provides for such preclusion.*
47 **2. That the provisions of this act apply to civil actions that are pending as of July 1, 2020, in**
48 **which trial has not yet commenced, provided that, where an order denying a plea of immunity has**
49 **been entered prior to July 1, 2020, a petition for review under subsection B of § 8.01-670.1 of the**
50 **Code of Virginia, as amended by this act, may be filed within 15 days of July 1, 2020.**