

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 211

*An Act to amend and reenact § 53.1-40.4 of the Code of Virginia, relating to appeal of order for involuntary admission.*

[H 921]

Approved April 2, 1994

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

**1. That § 53.1-40.4 of the Code of Virginia is amended and reenacted as follows:**

§ 53.1-40.4. Appeal of order authorizing involuntary admission.

A. Any prisoner involuntarily committed pursuant to § 53.1-40.2 shall have the right to appeal such order to the circuit court in the jurisdiction wherein the prisoner is located. The decision of the circuit court shall be final with no further right of appeal.

B. Such appeal must be filed within ~~thirty~~ *ten* days from the date of the order and shall be given priority over all other pending matters before the court and heard as soon as possible, notwithstanding the provisions of § 19.2-241 providing time within which the court shall set criminal cases for trial. The clerk of the court from which an appeal is taken shall immediately transmit the record to the clerk of the circuit court.

C. No appeal bond or writ tax shall be required and the appeal shall proceed without the payment of costs or other fees. Costs may be recovered as provided for in § 53.1-40.8.

D. The appeal to the circuit court shall be heard de novo. An order continuing the commitment shall be entered only if the criteria in § 53.1-40.2 are met at the time the appeal is heard. The prisoner so committed shall be entitled to trial by jury. Seven persons from a panel of thirteen shall constitute a jury in such cases.

E. If such prisoner is not represented by counsel, the judge shall appoint an attorney to represent him. Counsel so appointed shall be paid a fee as provided in § 37.1-67.6. The order of the court from which the appeal is taken shall be defended by the attorney for the Commonwealth.