

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 497

An Act to amend and reenact § 19.2-165 of the Code of Virginia, relating to felony cases; recording evidence.

[S 62]

Approved April 9, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-165 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-165. Recording evidence and incidents of trial in felony cases; cost of recording; cost of transcripts; certified transcript deemed prima facie correct; request for copy of transcript.

In all felony cases, the court or judge trying the case shall by order entered of record provide for the recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or electronic devices approved by the court. The expense of reporting or recording the trial of criminal cases shall be paid by the Commonwealth out of the appropriation for criminal charges, upon approval of the trial judge. However, the Commonwealth shall be entitled to receive from the defendant, if convicted, the per diem charges of the reporter or reasonable charge attributable to the cost of operating such mechanical or electronic devices, which charges shall be taxed as a part of the costs of the case.

~~Provided, however,~~ In all felony cases where it appears to the court from the affidavit of the defendant and other evidence that the defendant intends to seek an appeal and is financially unable to pay such costs or to bear the expense of a copy of the transcript of the evidence for an appeal, the trial court shall, upon the motion of counsel for the defendant, order the evidence transcribed for such appeal and all costs therefor paid by the Commonwealth out of the appropriation for criminal charges. If the conviction is not reversed, all costs paid by the Commonwealth, under the provisions hereof, shall be assessed against the defendant.

The reporter or other individual designated to report and record the trial shall file the original shorthand notes or other original records with the clerk of the circuit court who shall preserve them in the public records of the court for not less than ~~ten~~ *five years if an appeal was taken and a transcript was prepared, or ten years if no appeal was taken*. The transcript in any case certified by the reporter or other individual designated to report and record the trial shall be deemed prima facie a correct statement of the evidence and incidents of trial.

Upon the request of any counsel of record, or of any party not represented by counsel, and upon payment of the reasonable cost thereof, the court reporter covering any proceeding shall provide the requesting party with a copy of the transcript of such proceeding or any requested portion thereof.

The court shall not direct the court reporter to cease recording any portion of the proceeding without the consent of all parties or of their counsel of record.

The administration of this section shall be under the direction of the Supreme Court of Virginia.