

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 546

An Act to amend and reenact § 19.2-358 of the Code of Virginia, relating to default in deferred payment or installment.

[H 544]

Approved April 9, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-358 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-358. Procedure on default in deferred payment or installment payment of fine, costs, forfeiture, restitution or penalty.

A. When an individual obligated to pay a fine, costs, forfeiture, restitution or penalty defaults in the payment or any installment payment, the court upon the motion of the Commonwealth in the case of a conviction of a violation of a state law, or attorney for a locality or for the Commonwealth in the event of a conviction of a violation of a local law or ordinance, or upon its own motion, may require him to show cause why he should not be confined in jail or fined for nonpayment. *A show cause proceeding shall not be required prior to issuance of a capias if an order to appear on a date certain in the event of nonpayment was issued pursuant to subsection A of § 19.2-354 and the defendant failed to appear.*

B. Following the order to show cause *or following a capias issued for a defendant's failure to comply with a court order to appear issued pursuant to subsection A of § 19.2-354*, unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, *or unless the defendant shows that any failure to appear was not attributable to an intentional refusal to obey the order of the court*, the court may order the defendant confined as for a contempt for a term not to exceed sixty days or impose a fine not to exceed \$500. The court may provide in its order that payment or satisfaction of the amounts in default at any time will entitle the defendant to his release from such confinement or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of such amounts.

C. If it appears that the default is excusable under the standards set forth in subsection B hereof, the court may enter an order allowing the defendant additional time for payment, reducing the amount due or of each installment, or remitting the unpaid portion in whole or in part.

D. Nothing in this section shall be deemed to alter or interfere with the collection of fines by any means authorized for the enforcement of money judgments rendered in favor of the Commonwealth or any locality within the Commonwealth.