

LD3352812

HOUSE BILL NO. 1256

Offered January 25, 1994

A BILL to amend and reenact § 19.2-264.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-295.1, relating to sentencing proceedings in felony cases.

Patrons—Forbes, Almand, Baker, Bennett, Brickley, Cantor, Copeland, Cox, Croshaw, Crouch, Davies, Dudley, Fisher, Giesen, Griffith, Hamilton, Howell, Ingram, Johnson, Katzen, Kidd, Kilgore, Marshall, Martin, May, Mayer, McClure, McDonnell, Miller, Mims, Moore, Moss, Murphy, Newman, O'Brien, Orrock, Putney, Reid, Reynolds, Ruff, Sherwood, Tata, Wagner, Wardrup, Way and Wilkins; Senator: Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-264.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-295.1 as follows:

§ 19.2-264.3. Procedure for trial by jury.

A. In any case in which the offense may be punishable by death which is tried before a jury the court shall first submit to the jury the issue of guilt or innocence of the defendant of the offense charged in the indictment, or any other offense supported by the evidence for which a lesser punishment is provided by law and the penalties therefor.

B. If the jury finds the defendant guilty of an offense for which the death penalty may not be imposed, it shall fix the punishment for such offense as provided by law in § 19.2-295.1.

C. If the jury finds the defendant guilty of an offense which may be punishable by death, then a separate proceeding before the same jury shall be held as soon as is practicable on the issue of the penalty, which shall be fixed as is provided in § 19.2-264.4.

If the sentence of death is subsequently set aside or found invalid, and the defendant or the Commonwealth requests a jury for purposes of resentencing, the court shall impanel a different jury on the issue of penalty.

§ 19.2-295.1 *Sentencing proceeding by the jury after conviction for a felony.*

In cases of trial by jury, upon a finding that the defendant is guilty of a felony, a separate proceeding limited to the ascertainment of punishment shall be held as soon as practicable before the same jury. At such proceeding, evidence shall be presented of the defendant's prior criminal convictions, including adult convictions and juvenile convictions and adjudications of delinquency. Prior convictions shall include convictions and adjudications of delinquency under the laws of any state, the District of Columbia, the United States or its territories. If the defendant is found guilty of an offense other than a felony, punishment shall be fixed as otherwise provided by law.

If the sentence imposed by the jury is subsequently set aside or found invalid and the defendant or the Commonwealth requests a jury for resentencing, the court shall impanel a different jury on the issue of penalty.

INTRODUCED

HB1256