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HOUSE BILL NO. 1790

Offered January 19, 1995

A BILL to amend and reenact § 16.1-296 of the Code of Virginia, as it is currently effective, relating to appeal from juvenile courts; bond.

Patron—Woodrum

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-296 of the Code of Virginia, as it is currently effective, is amended and reenacted as follows:

§ 16.1-296. (For expiration and effective dates - See notes) Jurisdiction of appeals; procedure.

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken within ten days from the entry of a final judgment, order or conviction. However, in a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within thirty days from entry of a final order or judgment. An order of protection issued pursuant to § 16.1-279.1 in a case of spouse abuse is a final order from which an appeal may be taken.

B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of twelve persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or § 16.1-273.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within ninety days of the perfecting of the appeal.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall conform to the equity practice where evidence is heard ore tenus; however, an issue out of chancery may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts, but shall otherwise be docketed and processed as other civil cases.

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit court.

H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed unless and until the party applying for the same or someone for him shall give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. *An appeal will not be perfected unless such appeal bond as may be required is filed within thirty days from the entry of the final judgment, conviction or order.* However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the

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60 interest of a county, city or town.

61 If bond is furnished by or on behalf of any party against whom judgment has been rendered for
62 money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as
63 may be entered against the party on appeal, and for the payment of all damages which may be awarded
64 against him in the appellate court. If the appeal is by a party against whom there is no recovery, the
65 bond shall be conditioned for the payment of any damages as may be awarded against him on the
66 appeal.

67 This subsection shall not apply to release on bail pursuant to other subsections of this section or
68 § 16.1-298.

69 I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers
70 and authority granted by the chapter to the juvenile and domestic relations district court. Unless
71 otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint
72 counsel for the parties and compensate such counsel in accordance with the provisions of Article 6
73 (§ 16.1-266 et seq.) of this chapter.

74 J. In any case which has been referred or transferred from a circuit court to a juvenile court and an
75 appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit
76 court in the same locality as the juvenile court to which the case had been referred or transferred.

77 **2. That the provisions of this act shall expire on July 1, 1996, if funds are provided pursuant to**
78 **the provisions of clause 3 of Chapter 930 of the 1993 Acts of Assembly as amended by clause 2 of**
79 **Chapter 564 of the 1994 Acts of Assembly.**