

LD8482843

SENATE BILL NO. 853

Offered January 19, 1995

A BILL to amend and reenact § 19.2-295.1 of the Code of Virginia, relating to felony sentencing procedures.

Patrons—Stolle, Martin and Miller, K.G.; Delegates: Albo, Callahan, Dudley, Griffith, Hargrove, Katzen, Kidd, McClure and Ruff

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-295.1 of the Code of Virginia is amended and reenacted as follows:**

§ 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, the Commonwealth shall present the defendant's prior criminal convictions by certified, attested or exemplified copies of the record of conviction, 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. The Commonwealth shall provide to the defendant fourteen days prior to trial notice of its intention to introduce evidence of the defendant's prior criminal convictions. Such notice shall include (i) the date of each prior conviction, (ii) the name and jurisdiction of the court where each prior conviction was had and (iii) the offense giving rise to each prior conviction. Prior to commencement of the sentencing proceeding, the Commonwealth shall provide to the defendant photocopies of certified copies of the defendant's prior criminal convictions which it intends to introduce at sentencing. ~~After~~ If the Commonwealth has introduced such evidence of prior convictions, the defendant may introduce relevant, admissible evidence related to punishment. Nothing in this section shall prevent the Commonwealth or the defendant from introducing relevant, admissible evidence in rebuttal. Punishment shall be ascertained in the manner provided herein regardless of any attempt by the defendant to enter a plea of guilty after the jury has announced that it has found such defendant guilty of a felony. If the defendant is found guilty of an offense other than a felony, punishment shall be fixed as otherwise provided by law. Notwithstanding the provisions of § 19.2-295, if the jury is unable to unanimously agree upon punishment, the jury shall be discharged and the court shall fix punishment.

If the sentence is subsequently set aside or found invalid, the court shall impanel a different jury to ascertain punishment, unless the defendant, the attorney for the Commonwealth and the court agree, in the manner provided in § 19.2-257, that the court shall fix punishment.

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SB853