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## HOUSE BILL NO. 1111

Offered January 22, 1996

*A BILL to amend and reenact § 16.1-133 of the Code of Virginia, as it is currently effective and as it may become effective, relating to the withdrawal of an appeal.*

Patrons—Albo, Bryant, Callahan, Dudley, Fisher, Harris, Ingram, Katzen, Kilgore, McClure, Mims, Moore, Nixon and O'Brien; Senator: Ticer

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-133 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted as follows:**

§ 16.1-133. Withdrawal of appeal.

Notwithstanding the provisions of § 16.1-135, any person convicted in a general district court, a juvenile and domestic relations district court, or a court of limited jurisdiction of an offense not felonious may, at any time before the appeal is heard, withdraw an appeal which has been noted, pay the fine and costs to such court, and serve any sentence which has been imposed.

A person withdrawing an appeal shall give written notice of withdrawal to the court and counsel for the prosecution prior to the hearing date of the appeal. If the appeal is withdrawn more than ten days after conviction, the circuit court shall forthwith enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute. Fines and costs shall be collected by the circuit court, and all papers shall be retained in the circuit court clerk's office.

*If the defendant fails to appear, without cause, before the circuit court on the date scheduled for appeal and has not, prior to that date, requested a continuance by the circuit court, the court may, upon motion of the Commonwealth, declare the appeal unperfected and the clerk shall tax the costs as provided by statute. Fines and costs shall be collected by the district court, and all papers shall be retained in the district court clerk's office.*

Where the withdrawal is within ten days after conviction, no additional costs shall be charged, and the judgment of the lower court shall be imposed without further action of the circuit court.

§ 16.1-133. (Delayed effective date) Withdrawal of appeal.

Notwithstanding the provisions of § 16.1-135, any person convicted in a general district court or a family court may, at any time before the appeal is heard, withdraw an appeal which has been noted, pay the fine and costs to such court, and serve any sentence which has been imposed.

A person withdrawing an appeal shall give written notice of withdrawal to the court and counsel for the prosecution prior to the hearing date of the appeal. If the appeal is withdrawn more than ten days after conviction, the circuit court shall forthwith enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute. Fines and costs shall be collected by the circuit court, and all papers shall be retained in the circuit court clerk's office.

*If the defendant fails to appear, without cause, before the circuit court on the date scheduled for appeal and has not, prior to that date, requested a continuance by the circuit court, the court may, upon motion of the Commonwealth, declare the appeal unperfected and the clerk shall tax the costs as provided by statute. Fines and costs shall be collected by the district court, and all papers shall be retained in the district court clerk's office.*

Where the withdrawal is within ten days after conviction, no additional costs shall be charged, and the judgment of the lower court shall be imposed without further action of the circuit court.

INTRODUCED

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