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HOUSE BILL NO. 855

Offered January 22, 1996

A *BILL* to amend and reenact §§ 19.2-76 and 19.2-80 of the Code of Virginia, relating to bail hearings.

Patrons—Armstrong and Almand

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-76 and 19.2-80 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-76. Execution and return of warrant, *capias* or summons; arrest outside county or city where charge is to be tried.

~~An~~ A law-enforcement officer may execute within his jurisdiction a warrant, *capias* or summons issued anywhere in the Commonwealth. A warrant ~~or~~ *capias* shall be executed by the arrest of the accused, and a summons shall be executed by delivering a copy to the accused personally.

If the accused is a corporation, partnership, unincorporated association or legal entity other than an individual, a summons may be executed by service on ~~such~~ the entity in the same manner as provided in Title 8.01 for service of process on that entity in a civil proceeding. However, if the summons is served on ~~such~~ the entity by delivery to a registered agent or to any other agent who is not an officer, director, managing agent or employee of the entity, such ~~registered or other~~ agent shall not be personally subject to penalty for failure to appear as provided in § 19.2-128, nor shall ~~such~~ the agent be subject to punishment for contempt for failure to appear under his summons as provided in § 19.2-129.

The law-enforcement officer executing a warrant ~~or~~ *capias* shall endorse the date of execution thereon and make return thereof to a judicial official having authority to grant bail officer . The law-enforcement officer executing a summons shall endorse the date of execution thereon and make return thereof to the court to which the summons is returnable.

Whenever a person is arrested upon a warrant in a county or city contiguous to the county or city in which the charge is to be tried, the officer making the arrest may deliver the accused to the custody of an officer of a law-enforcement agency having jurisdiction in the county or city in which the charge is to be tried, or he may bring the accused before a judicial officer to be dealt with as is provided hereinafter.

Whenever a person is arrested upon a warrant in a county or city other than that in which the charge is to be tried, or in a county or city contiguous thereto, the officer making the arrest shall bring the accused before a judicial officer authorized to grant bail in the county or city in which the accused is arrested. ~~Such official~~ The law-enforcement officer executing a warrant ~~or~~ *capias* must bring the accused forthwith before a judicial officer in the locality where the arrest was made. The judicial officer shall immediately conduct a bail hearing and either commit the accused to the custody of an officer for transfer forthwith to the county or city where the charge is to be tried, or admit the accused to bail or commit him to jail for transfer as soon as possible; and such official shall endorse on the warrant the action taken thereon.

§ 19.2-80. Duty of arresting officer; bail.

In any case in which an officer does not issue a summons pursuant to § 19.2-74 or § 46.2-936, ~~an~~ a law-enforcement officer making an arrest under a warrant or *capias* shall bring the arrested person without unnecessary delay before and return such warrant or *capias* to a court of appropriate jurisdiction of the county or city in which the warrant or *capias* is issued, or before an official having authority to grant bail a judicial officer. ~~Such court or official~~ The judicial officer shall immediately conduct a bail hearing and either admit the accused to bail or commit him to jail. However, instead of admitting to bail or committing to jail, such official may, if (i) the accused is charged with a misdemeanor and is brought before a judge of the court having jurisdiction to try the case and (ii) both the accused and the Commonwealth consent and the Commonwealth does not object, the judge may proceed to trial if the accused is charged with a misdemeanor and the official is a judge of a district court having jurisdiction to try him for such misdemeanor instead of conducting a bail hearing .

INTRODUCED

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