

961143346

## HOUSE BILL NO. 948

Offered January 22, 1996

A *BILL* to amend and reenact §§ 19.2-217 and 19.2-218 of the Code of Virginia, relating to prosecution of felony by indictment or presentment; preliminary hearing.

Patron—McClure

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That §§ 19.2-217 and 19.2-218 of the Code of Virginia are amended and reenacted as follows:**

§ 19.2-217. When information filed; prosecution for felony to be by indictment or presentment; waiver; process to compel appearance of accused.

An information may be filed by the attorney for the Commonwealth based upon a complaint in writing verified by the oath of a competent witness; ~~but~~ . However, no person shall be put upon trial for any felony, unless (i) an indictment or presentment ~~shall have~~ has first been found or made by a grand jury in a court of competent jurisdiction ~~or unless~~, (ii) such person, by writing signed by such person before the court having jurisdiction to try ~~such~~ the felony or to conduct the preliminary hearing, or before the judge of such court ~~shall have~~, has waived such preliminary hearing, indictment or presentment, or (iii) such person is arrested on a felony charge and reasonable ground to believe that he committed the offense is found at a preliminary hearing, in which event he may be tried on a warrant or information. If the accused ~~be~~ is in custody, or has been recognized or summoned to answer such information, presentment or indictment, no other process shall be necessary; but the court may, in its discretion, issue process to compel the appearance of the accused.

§ 19.2-218. Preliminary hearing required for person arrested on charge of felony; waiver.

No person who is arrested on a charge of felony shall be denied a preliminary hearing upon the question of whether there is reasonable ground to believe that he committed the offense, and no indictment, information or warrant shall be returned in a circuit court of record against any such person prior to such hearing unless such preliminary hearing is waived in writing by the accused. *If it is found at the preliminary hearing that there is not reasonable ground to believe that the person who was arrested committed the offense, the attorney for the Commonwealth may proceed to seek an indictment or presentment as provided under § 19.2-217.*

INTRODUCED

HB948