

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-295.1 of the Code of Virginia, relating to bifurcated jury trial.*

3 [S 22]

4 Approved

5 **Be it enacted by the General Assembly of Virginia:**6 **1. That § 19.2-295.1 of the Code of Virginia is amended and reenacted as follows:**

7 § 19.2-295.1. Sentencing proceeding by the jury after conviction for a felony.

8 In cases of trial by jury, upon a finding that the defendant is guilty of a felony, a separate
9 proceeding limited to the ascertainment of punishment shall be held as soon as practicable before the
10 same jury. At such proceeding, the Commonwealth shall present the defendant's prior criminal
11 convictions by certified, attested or exemplified copies of the record of conviction, including adult
12 convictions and juvenile convictions and adjudications of delinquency. Prior convictions shall include
13 convictions and adjudications of delinquency under the laws of any state, the District of Columbia, the
14 United States or its territories. The Commonwealth shall provide to the defendant fourteen days prior to
15 trial notice of its intention to introduce evidence of the defendant's prior criminal convictions. Such
16 notice shall include (i) the date of each prior conviction, (ii) the name and jurisdiction of the court
17 where each prior conviction was had, and (iii) each offense of which he was convicted. Prior to
18 commencement of the trial, the Commonwealth shall provide to the defendant photocopies of certified
19 copies of the defendant's prior criminal convictions which it intends to introduce at sentencing. After the
20 Commonwealth has introduced such evidence of prior convictions, or if no such evidence is introduced,
21 the defendant may introduce relevant, admissible evidence related to punishment. Nothing in this section
22 shall prevent the Commonwealth or the defendant from introducing relevant, admissible evidence in
23 rebuttal. If the defendant is found guilty of an offense other than a felony, punishment shall be fixed as
24 otherwise provided by law.

25 *If the jury cannot agree on a punishment and if the defendant, the attorney for the Commonwealth,*
26 *and the court agree, in the manner provided in § 19.2-257, then the court shall fix punishment.*

27 If the sentence on appeal is subsequently set aside or found invalid solely due to an error in the
28 sentencing proceeding, the court shall impanel a different jury to ascertain punishment, unless the
29 defendant, the attorney for the Commonwealth and the court agree, in the manner provided in
30 § 19.2-257, that the court shall fix punishment.

ENROLLED

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