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HOUSE BILL NO. 1044

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on December 20, 1996)

(Patron Prior to Substitute—Delegate Watts)

A BILL to amend and reenact § 19.2-120 of the Code of Virginia, relating to bail.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-120 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-120. Right to bail; use of bond to satisfy fines and costs.

An accused, or juvenile taken into custody pursuant to § 16.1-246 who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer as defined in § 19.2-119, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or

2. His liberty will constitute an unreasonable danger to himself or the public.

If the judicial officer finds by clear and convincing evidence that *(i) within the preceding sixteen years*, the accused or juvenile was ~~within the preceding sixteen years~~ convicted of an offense listed in §§ 18.2-248, 18.2-248.01, 18.2-255, or § 18.2-255.2 that involves a Schedule I or II controlled substance, was previously convicted as a "drug kingpin" as defined in § 18.2-248, or was previously convicted of an act of violence as defined in § 19.2-297.1 and finds probable cause to believe that the accused or juvenile who is currently charged with one of these offenses committed the offense charged, *or (ii) the accused or juvenile had previously been convicted of an offense listed in subsection B of § 18.2-67.5:2 and finds probable cause to believe that the accused or juvenile who is currently charged with one of these offenses committed the offense charged*, then the judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public.

The judicial officer shall inform the accused or juvenile of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.