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SENATE BILL NO. 937

Offered January 16, 1997

A BILL to amend and reenact § 9-6.14:16 of the Code of Virginia, relating to the Administrative Process Act; judicial review in public assistance cases.

Patrons—Gartlan, Howell and Ticer; Delegates: Almand, Darner, DeBoer and Melvin

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 9-6.14:16 of the Code of Virginia is amended and reenacted as follows:

§ 9-6.14:16. Right, forms, venue.

A. Any person affected by and claiming the unlawfulness of any regulation, or party aggrieved by and claiming unlawfulness of a case decision, as the same are defined in § 9-6.14:4 of this chapter and whether or not excluded from the procedural requirements of Article 2 (§ 9-6.14:7.1 et seq.) or 3 (§ 9-6.14:11 et seq.) hereof, shall have a right to the direct review thereof by an appropriate and timely court action against the agency as such or its officers or agents in the manner provided by the rules of the Supreme Court of Virginia. Such actions may be instituted in any court of competent jurisdiction as provided in § 9-6.14:5, and the judgments of such courts of original jurisdiction shall be subject to appeal to or review by higher courts as in other cases unless otherwise provided by law. In addition, when any such regulation or case decision is the subject of an enforcement action in court, the same shall also be reviewable by the court as a defense to the action, and the judgment or decree therein shall be appealable as in other cases.

B. The provisions of this article shall apply to case decisions regarding the grant or denial of aid to dependent children, Medicaid, food stamps, general relief, auxiliary grants, or state-local hospitalization. However, no appeal pursuant to this article may be brought regarding the adequacy of standards of need and payment levels for public assistance programs. Notwithstanding the provisions of § 9-6.14:17, such review shall be based solely upon the agency record, and the court shall be limited to ascertaining whether there was evidence in the agency record to support the case decision of the agency acting as the trier of fact. If the court finds in favor of the party complaining of agency action, the court shall remand the case to the agency for further proceedings. The validity of any statute, regulation, standard or policy, federal or state, upon which the action of the agency was based shall not be subject to review by the court. No intermediate relief shall be granted under § 9-6.14:18.

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