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HOUSE BILL NO. 1565

House Amendments in [ ] — January 26, 1999

A BILL to amend and reenact § 8.01-335 of the Code of Virginia, relating to cases struck from dockets after certain period.

Patron—Johnson

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-335 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-335. Certain cases struck from dockets after certain period; reinstatement.

A. Except as provided in subsection C, any court in which is pending an action, wherein for more than two years there has been no order or proceeding, except to continue it, may, in its discretion, order it to be struck from its docket and the action shall thereby be discontinued. However, no case shall be discontinued if either party requests that it be continued. The court shall thereafter enter a pretrial order pursuant to Rule 4:13 controlling the subsequent course of the case to ensure a timely resolution of that case. If the court thereafter finds that the case has not been timely prosecuted pursuant to its pretrial order, it may strike the case from its docket. The clerk of the court shall notify the parties in interest if known, or their counsel of record at his last known address, at least fifteen days before the entry of such order of discontinuance so that all parties may have an opportunity to be heard on it. Any case discontinued under the provisions of this subsection may be reinstated, on motion, after notice to the parties in interest if known or their counsel of record, within one year from the date of such order but not after.

B. Any court in which is pending a case wherein for more than three years there has been no order or proceeding, except to continue it, may, in its discretion, order it to be struck from its docket and the action shall thereby be discontinued. *The court may dismiss cases under this subsection without any notice to the parties.* [*The clerk shall provide the parties with a copy of the final order discontinuing or dismissing the case.*] Any case discontinued [*or dismissed*] under the provisions of this subsection may be reinstated, on motion [~~and for cause~~] , after notice to the parties in interest, if known, or their counsel of record within one year from the date of such order but not after.

C. If a civil action is pending in a circuit court on appeal from a general district court and (i) an appeal bond has been furnished by or on behalf of any party against whom judgment has been rendered for money or property and (ii) for more than one year there has been no order or proceeding, except to continue the matter, the action may, upon notice to the parties in accordance with subsection A, be dismissed and struck from the docket of the court. Upon dismissal pursuant to this subsection, the judgment of the general district court shall stand and the appeal bond shall be forfeited after application of any funds needed to satisfy the judgment.