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## SENATE BILL NO. 127

Offered January 13, 2010

Prefiled January 7, 2010

A BILL to amend and reenact § 17.1-114 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 17.1 an article numbered 3, consisting of sections numbered 17.1-330 and 17.1-331, relating to declaration of judicial emergency.

Patron—Marsh

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-114 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 17.1 an article numbered 3, consisting of sections numbered 17.1-330 and 17.1-331, as follows:**

§ 17.1-114. When and how changed.

Whenever in the opinion of a circuit court or the judge thereof, the courthouse or other place wherein it is required to hold its session cannot or should not for any reason be occupied by it, or if the same has been destroyed, or is being repaired, renovated, or enlarged, the court may hold its session at such places within the geographical limits of the same judicial circuit as the court may direct by an order to its clerk. The court shall continue to hold its sessions in such other place until the courthouse or its lawful place of session can be occupied, or until another has been built and fitted for the court's occupation, or until such repairs, renovations or additions have been completed, or until some other place is designated by the court. Except as provided in *subsection C of § 17.1-330* or this section or as agreed to by all parties to an action, no session of a circuit court shall be held outside the geographical limits of the county or city of which it is the court.

In the interest of justice, the chief judges of the Twenty-first and the Twenty-third Judicial Circuits may, by order, designate one or more of the courtrooms of any circuit court within their respective circuits as the courtroom or courtrooms in which civil or criminal cases whose venue is laid within the circuit may be tried. In criminal cases, jurors summoned to appear at such courtroom or courtrooms shall reside in the locality in which the crime was committed, except as otherwise provided by law.

*Article 3. Declaration of Judicial Emergency*

§ 17.1-330. Declaration of judicial emergency.

A. A judicial emergency may be declared as provided in this section when a disaster, as defined in § 44-146.16, substantially endangers or impedes the operation of a court, the ability of persons to avail themselves of the court, or the ability of litigants or others to have access to the court or to meet schedules or time deadlines imposed by court order, rule, or statute. Notwithstanding any other provision of law, the Chief Justice of the Supreme Court or, if the Chief Justice is unavailable, the justice longest in continuous service who is available, shall have the power to declare by order a judicial emergency (i) for any court upon the request of the Governor, (ii) for the Supreme Court *sua sponte*, (iii) for the Court of Appeals, upon the request of the chief judge of the Court of Appeals or, if the chief judge is unavailable, the judge of the Court of Appeals longest in continuous service who is available (iv) for any circuit or district court upon the request of the chief judge of the affected circuit or district court or, if the chief judge is unavailable, the judge from the affected circuit or district court longest in continuous service who is available.

B. Any order declaring a judicial emergency shall specify (i) the court or courts and facilities affected by the order; (ii) the nature of the disaster necessitating the order; (iii) the time period or duration of the judicial emergency; and (iv) any other information relevant to the suspension or restoration of court operations, including but not limited to extension of deadlines. The order shall become effective for each affected court upon the date set forth in the order or, if no date is set forth in the order, upon the date the order is signed.

C. Notwithstanding any other provision of law, an order declaring a judicial emergency may designate a neighboring city or county not affected by the disaster for the temporary relocation of the affected circuit or district court. Locations designated under this section may be outside the geographical limits of the affected court's circuit or district.

If an affected circuit or district court conducts sessions in a city or county not affected by the disaster pursuant to this section, the unaffected city or county shall be a proper venue for civil and criminal actions to the same extent as if the affected court were operating in its original city or county. An affected circuit court may, upon motion of either party, and for good cause shown, summon jurors

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59 *from the jurisdiction where the affected circuit court has been temporarily relocated.*

60 *D. Notwithstanding any other provision of law, such order may suspend, toll, extend, or otherwise*  
61 *grant relief from deadlines, time schedules, or filing requirements imposed by otherwise applicable*  
62 *statutes, rules, or court orders in any court processes and proceedings, including all appellate court*  
63 *time limitations.*

64 *E. The duration of the order shall be for the shortest period of time necessary under the*  
65 *circumstances of the emergency, but in no event shall the period exceed 21 calendar days. Any such*  
66 *order may be extended for additional periods not to exceed 21 calendar days by a majority of the*  
67 *justices of the Supreme Court, and any order of extension shall include the information required by*  
68 *subsection B for the issuance of an initial order. In the event of a communicable disease of public*  
69 *health threat, as defined in § 44-146.16, a majority of the justices of the Supreme Court may extend*  
70 *such order for the duration of the threat.*

71 *§ 17.1-331. Notice.*

72 *Any order declaring a judicial emergency shall be recorded in the order book maintained by the*  
73 *clerk of the Supreme Court, and notice shall be provided to the clerk of the Court of Appeals and all*  
74 *judges and clerks of the courts within any affected circuit or district. Notice to the public shall be given*  
75 *by any means reasonably calculated to inform interested persons and may, without limitation, include*  
76 *publication in a newspaper of local or state-wide distribution, posting of written notices at courthouses*  
77 *and other public facilities, and announcements on television, radio, and the Internet.*