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HOUSE BILL NO. 1311

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 13, 2013)

(Patron Prior to Substitute—Delegate Hope)

A BILL to amend and reenact §§ 19.2-124 and 19.2-132 of the Code of Virginia, relating to appeal of bond decision; stays.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-124 and 19.2-132 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-124. Appeal from bail, bond, or recognizance order.

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal the decision of the judicial officer.

If the initial bail decision on a charge brought by a warrant or district court capias is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the district court in which the case is pending.

If the initial bail decision on a charge brought by direct indictment or presentment or circuit court capias is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the circuit court in which the case is pending.

If the appeal of an initial bail decision is taken on any charge originally pending in a district court after that charge has been appealed, certified, or transferred to a circuit court, the person shall first appeal to the circuit court in which the case is pending.

Any bail decision made by a judge of a court may be appealed successively by the person to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.

B. The attorney for the Commonwealth may appeal a bail, bond, or recognizance decision to the same court to which the accused person is required to appeal under subsection A.

C. If the accused is charged with an offense or offenses for which a rebuttable presumption against bail exists under subsection B or C of § 19.2-120 or under § 19.2-120.1, the court granting or denying such bail may, upon appeal thereof, and for good cause shown, stay execution of such order for so long as reasonably practicable for the party to obtain an expedited hearing before the next higher court. No such stay may be granted after any person who has been granted bail has been released from custody on such bail.

D. No filing or service fees shall be assessed or collected for any appeal taken pursuant to this section.

§ 19.2-132. Motion to increase amount of bond fixed by judicial officer; when bond may be increased.

If the amount of any bond fixed by a judicial officer is subsequently deemed insufficient, or the security taken inadequate, or if it appears that bail should have been denied or that the person has violated a term or condition of his release, or has been convicted of or arrested for a felony or misdemeanor, the attorney for the Commonwealth of the county or city in which the person is held for trial may, on reasonable notice to the person and, if such person has been admitted to bail, to any surety on the bond of such person, move the appropriate judicial officer to increase the amount of such bond or to revoke bail. The court may grant such motion and may require new or additional sureties therefor, or both or revoke bail. Any surety in a bond for the appearance of such person may take from his principal collateral or other security to indemnify such surety against liability. The failure to notify the surety will not prohibit the court from proceeding with the bond hearing.

The court ordering any increase in the amount of such bond, ordering new or additional sureties, or revoking such bail may, upon appeal, and for good cause shown, stay execution of such order for so long as reasonably practicable for such person to obtain an expedited hearing before the court to which such order has been appealed.