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HOUSE BILL NO. 1763

Offered January 9, 2013

Prefiled January 8, 2013

A *BILL to amend and reenact § 19.2-72 of the Code of Virginia, relating to issuance of arrest warrants by jail officers.*

Patron—Bell, Robert B.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-72 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-72. When it may issue; what to recite and require.

On complaint of a criminal offense to any officer authorized to issue criminal warrants he shall examine on oath the complainant and any other witnesses, or when such officer shall suspect that an offense punishable otherwise than by a fine has been committed he may, without formal complaint, issue a summons for witnesses and shall examine such witnesses. A written complaint shall be required if the complainant is not a law-enforcement officer. If upon such examination such officer finds that there is probable cause to believe the accused has committed an offense, such officer shall issue a warrant for his arrest, except that no magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged offense. The warrant shall (i) be directed to an appropriate officer or officers, (ii) name the accused or, if his name is unknown, set forth a description by which he can be identified with reasonable certainty, (iii) describe the offense charged with reasonable certainty, (iv) command that the accused be arrested and brought before a court of appropriate jurisdiction in the county, city or town in which the offense was allegedly committed, and (v) be signed by the issuing officer. The warrant shall require the officer to whom it is directed to summon such witnesses as shall be therein named to appear and give evidence on the examination. But in a city or town having a police force, the warrant shall be directed "To any policeman, sheriff or his deputy sheriff of such city (or town)," and shall be executed by the policeman, sheriff or his deputy sheriff into whose hands it shall come or be delivered. A sheriff or his deputy may execute an arrest warrant throughout the county in which he serves and in any city or town surrounded thereby and effect an arrest in any city or town surrounded thereby as a result of a criminal act committed during the execution of such warrant. *A jail officer employed at a local jail, regional jail or jail farm is authorized to execute a warrant of arrest upon an accused in his jail.* The venue for the prosecution of such criminal act shall be the jurisdiction in which the offense occurred.

§ 19.2-76. Execution and return of warrant, capias or summons; arrest outside county or city where charge is to be tried.

A law-enforcement officer may execute within his jurisdiction a warrant, capias or summons issued anywhere in the Commonwealth. *An officer employed at a local jail, regional jail or jail farm may execute upon a person being held in his jail a warrant, capias or summons issued anywhere in the Commonwealth.* A warrant or capias shall be executed by the arrest of the accused, and a summons shall be executed by delivering a copy to the accused personally.

If the accused is a corporation, partnership, unincorporated association or legal entity other than an individual, a summons may be executed by service on the entity in the same manner as provided in Title 8.01 for service of process on that entity in a civil proceeding. However, if the summons is served on the entity by delivery to a registered agent or to any other agent who is not an officer, director, managing agent or employee of the entity, such agent shall not be personally subject to penalty for failure to appear as provided in § 19.2-128, nor shall the agent be subject to punishment for contempt for failure to appear under his summons as provided in § 19.2-129.

The law-enforcement officer *or jail officer* executing a warrant or capias shall endorse the date of execution thereon and make return thereof to a judicial officer. The law-enforcement officer executing a summons shall endorse the date of execution thereon and make return thereof to the court to which the summons is returnable.

Whenever a person is arrested upon a warrant or capias in a county or city other than that in which the charge is to be tried, the law-enforcement officer making the arrest shall either (i) bring the accused forthwith before a judicial officer in the locality where the arrest was made or where the charge is to be tried or (ii) commit the accused to the custody of an officer from the county or city where the charge is

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59 to be tried who shall bring the accused forthwith before a judicial officer in the county or city in which
60 the charge is to be tried. *Unless the accused is to be held, pending his bail hearing, in the jail where*
61 *the jail officer is employed, the jail officer making such an arrest shall commit the accused to the*
62 *custody of an officer from the county or city where the charge is to be tried who shall bring the*
63 *accused forthwith before a judicial officer in the county or city in which the charge is to be tried.* The
64 judicial officer before whom the accused is brought shall immediately conduct a bail hearing and either
65 admit the accused to bail or commit him to jail for transfer forthwith to the county or city where the
66 charge is to be tried.