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## SENATE BILL NO. 1118

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on February 15, 2013)

(Patron Prior to Substitute—Senator McDougle)

*A BILL to amend and reenact § 19.2-124 of the Code of Virginia, relating to release of accused pending appeal of bond decision by the Commonwealth.*

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

**1. That § 19.2-124 of the Code of Virginia is 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. *A court that grants such bail shall, when there exists a presumption against bail, and may, when no such presumption exists, upon the noting of an appeal in open court or the filing of a written notice of appeal with the clerk of court by the attorney for the Commonwealth, stay execution of such bail order of an accused who has not yet been released for as long as is reasonably practicable so that the attorney for the Commonwealth may obtain an expedited hearing of the appeal before the next higher court.*

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