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HOUSE BILL NO. 163

Offered January 8, 2014

Prefiled December 20, 2013

A BILL to amend and reenact § 19.2-124 of the Code of Virginia, relating to appeal from bail, bond, or recognizance order; compliance with appellate court.

Patron—Albo

Referred to Committee for Courts of Justice

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. 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. *Any court from which an appeal of a bail, bond, or recognizance decision is taken shall not modify the appellate court's decision regarding the terms or amount of such bail, bond, or recognizance unless (i) the appellate court remands the matter to the court from which the appeal was taken for further action or (ii) the court from which the appeal was taken finds, upon good cause shown, that a change in circumstances has occurred since the appellate court's decision that warrants a modification of the terms or amount of such bail, bond, or recognizance.*

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

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