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HOUSE BILL NO. 2063

Offered January 11, 2017

Prefiled January 10, 2017

A *BILL to amend the Code of Virginia by adding a section numbered 16.1-296.3, relating to pretrial appeals by the Commonwealth from juvenile and domestic relations district court.*

Patron—Mullin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 16.1-296.3 as follows:****§ 16.1-296.3. Appeals by the Commonwealth.**

A. *In any delinquency case in which a juvenile is to be tried for an offense that would be a felony if committed by an adult, a pretrial appeal from a juvenile and domestic relations district court may be taken to the circuit court by the Commonwealth from:*

1. *An order of a juvenile and domestic relations district court dismissing a warrant, information, or indictment, or any count or charge thereof, on the grounds that (i) the defendant was deprived of a speedy trial in violation of the provisions of the Sixth Amendment to the Constitution of the United States; Article I, Section 8 of the Constitution of Virginia; or § 19.2-243 or (ii) the defendant would be twice placed in jeopardy in violation of the provisions of the Fifth Amendment to the Constitution of the United States or Article I, Section 8 of the Constitution of Virginia; or*

2. *An order of a juvenile and domestic relations district court prohibiting the use of certain evidence at trial on the grounds that such evidence was obtained in violation of the provisions of the Fourth, Fifth, or Sixth Amendment to the Constitution of the United States or Article I, Section 8, 10, or 11 of the Constitution of Virginia prohibiting illegal searches and seizures and protecting rights against self-incrimination, provided that the Commonwealth certifies that the appeal is not taken for purpose of delay and that the evidence is substantial proof of a fact material in the proceeding.*

B. *If a juvenile and domestic relations district court enters an order described in subsection A, the court shall, upon motion of the attorney for the Commonwealth, stay the proceedings and transmit the case, together with all papers, documents, and evidence connected therewith, to the circuit court for a determination of whether the warrant, information, or indictment, or any count or charge thereof, should have been dismissed or the evidence should have been suppressed. The Commonwealth may appeal the decision of the circuit court to the Court of Appeals and the decision of the Court of Appeals shall be final and no further appeal shall lie to the Supreme Court. However, if the circuit court determines that the warrant, information, or indictment, or any count or charge thereof, should not have been dismissed or the evidence should not have been suppressed, the circuit court shall remand the case to the juvenile and domestic relations district court for trial consistent with the ruling of the circuit court.*

C. *A circuit court judge hearing a pretrial appeal pursuant to this section shall not hear any appeal by the juvenile of the final judgment or order in the juvenile's case unless the parties agree otherwise.*

INTRODUCED

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