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HOUSE BILL NO. 136

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 22, 2020)

(Patron Prior to Substitute—Delegate Collins [HB 138])

A BILL to amend and reenact § 19.2-149 of the Code of Virginia, relating to bail bondsman; deposit for surrender of principal for reasons other than principal's failure to appear.

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-149 of the Code of Virginia is amended and reenacted as follows:****§ 19.2-149. How surety on a bond in recognizance may surrender principal and be discharged from liability; deposit for surrender of principal.**

A. A bail bondsman or his licensed bail enforcement agent on a bond in a recognizance may at any time arrest his principal and surrender him to the court before which the recognizance was taken or before which such principal's appearance is required, or to the sheriff, sergeant or jailer of the county or city wherein the court before which such principal's appearance is required is located; in addition to the above authority, upon the application of the surety, the court, or the clerk thereof, before which the recognizance was taken, or before which such principal's appearance is required, or any magistrate shall issue a capias for the arrest of such principal, and such capias may be executed by such bail bondsman or his licensed bail enforcement agent, or by any sheriff, sergeant or police officer, and the person executing such capias shall deliver such principal and such capias to the sheriff or jailer of the county or the sheriff, sergeant or jailer of the city in which the appearance of such principal is required, and thereupon the surety or the property bail bondsman shall be discharged from liability for any act of the principal subsequent thereto. Upon application of the surety for a capias, the surety shall state the basis for which the capias is being requested. Such sheriff, sergeant or jailer shall thereafter deliver such capias to the clerk of such court, with his endorsement thereon acknowledging delivery of such principal to his custody.

If a magistrate issues a capias pursuant to this section, the magistrate shall transmit a copy of the capias to the court before which such principal's appearance is required by the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

B. If a bail bondsman on a bond in a recognizance surrenders his principal for any reason other than a summons to show cause issued by the court for which the principal is principal's failure to appear in any court, the bondsman shall deposit with the clerk or magistrate the greater of 10 percent of the amount of the bond or \$50, which shall be made at such time the bondsman makes application for a capias. The bondsman shall petition the court within 15 days from the surrender of the principal to show cause, if any can be shown, why the bondsman is entitled to the amount deposited. If the court finds that there was sufficient cause to surrender the principal, the court shall return the deposited funds to the bondsman. If the court finds that the surrender of the principal by the bondsman was unreasonable, the deposited funds shall be returned to the principal payer. Remission of funds shall not be issued by the court until the sixteenth day after the finding. If the bondsman does not petition the court for the return of the deposited funds within 15 days from the surrender of the principal, the deposited funds shall be paid into the state treasury to be credited to the Literary Fund. Nothing in this subsection shall apply to a private citizen who posted cash or real estate to secure the release of a defendant.