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HOUSE BILL NO. 167

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Keys-Gamarra)

A BILL to amend and reenact §§ 19.2-155 and 19.2-206 of the Code of Virginia, relating to special grand juries.

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

**1. That §§ 19.2-155 and 19.2-206 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-155. Disqualification or temporary disability of attorney for Commonwealth; appointment of substitute; powers, duties and compensation of such appointee.**

If the attorney for the Commonwealth of any county or city is connected by blood or marriage with the accused, or is so situated with respect to such accused as to render it improper, in his opinion, concurred in by the judge, for him to act, or if such attorney for the Commonwealth of any county or city is unable to act, or to attend to his official duties as attorney for the Commonwealth, due to sickness, disability or other reason of a temporary nature, then upon notification by such attorney for the Commonwealth, or upon the certificate of his attending physician, or the clerk of the court, which fact shall be entered of record, the judge of the circuit court shall appoint from another jurisdiction an attorney for the Commonwealth or an assistant attorney for the Commonwealth, with the consent of such attorney for the Commonwealth or assistant, who is not authorized by law to engage in private practice for such case or cases, term or terms of court, or period or periods of time, as may be necessary or desirable, and the same to be forthwith entered of record. However, if the circuit court determines that the appointment of such attorney for the Commonwealth or such assistant attorney for the Commonwealth is not appropriate or that such an attorney or assistant is unavailable, or for other good cause, then the circuit court may appoint an attorney-at-law who shall be compensated pursuant to § 19.2-332. Such appointee shall act in place of, and otherwise perform the duties and exercise the powers of, such disqualified or disabled attorney for the

27 Commonwealth, in regard to such case or cases, for the term or terms of the court, or the period or periods  
28 of time, for which the appointment and designation is made, or until the disqualified or disabled attorney  
29 for the Commonwealth shall again be able to attend to his duties as such. Nothing herein shall prevent a  
30 court from appointing as a special assistant attorney for the Commonwealth, without additional  
31 compensation, an attorney employed by a state agency when such appointment is requested by the attorney  
32 for the Commonwealth and the court determines such appointment will aid in the prosecution of a  
33 particular case or cases.

34 When any person is killed by a law-enforcement officer, as defined in § 9.1-101, or a correctional  
35 officer, as defined in § 53.1-1, who is engaged in the performance of his official duties, the judge of the  
36 circuit court of the locality in which the killing occurred shall appoint from another jurisdiction either an  
37 attorney for the Commonwealth or assistant attorney for the Commonwealth to investigate such killing  
38 and, if necessary, request a special grand jury pursuant to subsection C of § 19.2-206.

39 An attorney for the Commonwealth or assistant attorney for the Commonwealth who is required  
40 by law to devote full time to his duties as such shall not receive additional compensation for services  
41 rendered on appointment pursuant to this section. However, such attorney for the Commonwealth or  
42 assistant may receive reimbursement for actual expenses incurred, as approved by the Compensation  
43 Board to be paid by the Compensation Board, provided such expenses are not otherwise reimbursed by  
44 the county or city which he is elected or appointed to serve or by the Compensation Board.

45 **§ 19.2-206. When impanelled.**

46 A. Special grand juries may be impanelled by a circuit court (i) at any time upon its own motion,  
47 (ii) upon recommendation of a minority of the members of a regular grand jury that a special grand jury  
48 be impanelled; to perform the functions provided for in subdivision (2) of § 19.2-191, or (iii) upon request  
49 of the attorney for the Commonwealth to investigate and report on any condition that involves or tends to  
50 promote criminal activity and consider bills of indictment to determine whether there is sufficient probable  
51 cause to return each such indictment as a "true bill."

52 B. A special grand jury shall be impanelled by a circuit court upon the recommendation of a  
53 majority of the members of a regular grand jury if the court finds probable cause to believe that a crime

54 has been committed ~~which~~ that should be investigated by a special grand jury impanelled to perform the  
55 functions provided for in subdivision (2) of § 19.2-191.

56 C. A special grand jury shall be impanelled by a circuit court upon the request of the attorney for  
57 the Commonwealth or assistant attorney for the Commonwealth appointed pursuant to § 19.2-155 when  
58 any person is killed by a law-enforcement officer, as defined in § 9.1-101, or a correctional officer, as  
59 defined in § 53.1-1, who is engaged in the performance of his official duties to investigate and report on  
60 any condition that involves or tends to promote criminal activity and consider bills of indictment to  
61 determine whether there is sufficient probable cause to return each such indictment as a "true bill."

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