

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 488

An Act to amend and reenact §§ 16.1-69.40 and 47.1-5 of the Code of Virginia, relating to notarial acts performed by clerks and deputy clerks of general district courts.

[S 1197]

Approved March 22, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.40 and 47.1-5 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.40. Powers and duties of clerks.

The clerk and deputy clerks shall be conservators of the peace within the territory for which the court has jurisdiction, and may, within such judicial district, issue warrants, detention orders, and other processes, original, mesne and final, both civil and criminal, commit to jail or other detention facility, or admit to bail upon recognizance, persons charged with crimes or before the court on civil petition, subject to the limitations set forth by law, and issue subpoenas for witnesses, writs of fieri facias and writs of possession, attachments and garnishments and abstracts of judgments. A record made in the performance of the clerk's official duties may be authenticated as a true copy by the clerk or by a deputy clerk without additional authentication by the judge to whom the clerk reports, notwithstanding the provisions of subsection B of § 8.01-391.

No clerk or deputy clerk shall issue any warrant or process based on complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, first cousin, guardian or ward. They may take affidavits and administer oaths and affirmations, take and certify depositions in the same manner as a notary public, *perform such other notarial acts as allowed under § 47.1-12*, take acknowledgments to deeds or other writings for purposes of recordation, and issue all other legal processes which may be issued by the judge of such court and exercise such other powers and perform such other duties as are conferred or imposed upon them by law. The clerk may also issue to interested persons informational brochures authorized by a judge of such court explaining the legal rights of such persons.

The clerk shall develop, implement and administer procedures necessary for the efficient operation of the clerk's office, keep the records and accounts of the court, supervise nonjudicial personnel and discharge such other duties as may be prescribed by the judge.

§ 47.1-5. Application; references.

No person shall be appointed a notary public pursuant to this chapter until he submits an application to the Secretary of the Commonwealth, in a form prescribed by the appointing authority, which shall include the following:

1. The oath of the applicant, signed and sworn before some officer authorized by law to administer oaths, that the answers to all questions on the application are true and complete to the best of his knowledge and that he is qualified to be appointed and commissioned as a notary public.

2. Endorsements from two registered voters of this Commonwealth, stating that, to the best of the endorser's knowledge, the applicant is a person of sound moral character and is possessed of all the qualifications for appointment set forth in this chapter.

3. A statement signed by any judge, clerk or deputy clerk of any court of this Commonwealth, or by any attorney for the Commonwealth or assistant attorney for the Commonwealth, or by the Attorney General or any of his assistants, or by any member of the General Assembly, that such official has examined the application and recommends the applicant for appointment.

4. An application fee as set forth in § 2.1-71.2; *however, such fee shall be waived for an application filed by a clerk or deputy clerk of a general district court.*