

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 513

An Act to amend and reenact § 8.01-410 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 16.1-93.1, 16.1-276.2, 16.1-276.3 and 17.1-513.2, relating to convicts as witnesses in civil actions.

[S 802]

Approved March 23, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-410 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 16.1-93.1, 16.1-276.2, 16.1-276.3 and 17.1-513.2 as follows:

§ 8.01-410. Convicts as witnesses in civil actions.

Whenever any party in a civil action in any circuit court in this Commonwealth shall require as a witness in his behalf, a convict or prisoner in a correctional or penal institution as defined in § 53.1-1, the court, on the application of such party or his attorney may, in its discretion and upon consideration of the importance of the personal appearance of the witness and the nature of the offense for which he is imprisoned, issue an order to the Director of the Department of Corrections to deliver such witness to the sheriff of the county or the city, as the case may be, who shall go where such witness may then be. Under such conditions as shall be prescribed by the superintendent of the institution, such officer of the jurisdiction of the court issuing the order. The sheriff shall ~~carry~~ transport the convict to the court to testify as such witness, and after he shall have so testified and been released as such witness, ~~carry him~~ back to the place whence he came the sheriff shall return the witness to the custody of the Department.

If necessary the sheriff may confine the convict for the night in any convenient city or county correctional institution.

Under such rules and regulations as the superintendent of such an institution may prescribe, any party to a civil action in any circuit court in this Commonwealth may take the deposition of a convict or prisoner in the institution, which deposition, when taken, may be admissible in evidence as other depositions in civil actions.

The party seeking the testimony of such prisoner shall advance a sum sufficient to defray the expenses and compensation of the *correctional officers and sheriff*, which the court shall tax as other costs.

For the purposes of this section, "correctional officers" shall have the same meaning as provided in § 53.1-1.

§ 16.1-93.1. *Use of telephonic communication systems or electronic video and audio communication systems to conduct hearing.*

Notwithstanding any other provision of law, in any proceeding under this chapter in which a party or witness is incarcerated or when otherwise authorized by the court, the court may, in its discretion, conduct any hearing using a telephonic communication system or an electronic audio and video communication system to provide for the appearance of any parties and witnesses. Any electronic audio and video communication system used to conduct such a hearing shall meet the standards set forth in subsection B of § 19.2-3.1.

§ 16.1-276.2. *Transportation orders in certain proceedings.*

In any proceeding (i) pursuant to subdivisions 2, 4 or 5 of subsection A of § 16.1-241, (ii) pursuant to subsections K or U of § 16.1-241, (iii) involving a child who is alleged to be abused or neglected, or (iv) involving a child who is before the court pursuant to §§ 16.1-281, 16.1-282 or § 16.1-282.1, if the judge finds that the presence at a hearing of a prisoner in a state, local or regional correctional institution is essential to the just adjudication and disposition of the proceeding, the judge may issue an order to the Director of the Department of Corrections or the administrator of the state, local or regional correctional institution to deliver such witness to the sheriff of the jurisdiction of the court issuing the order. Such orders shall be executed in accordance with § 8.01-410. Any such orders shall issue only upon consideration of the importance of the personal appearance of the person.

The party seeking the testimony of such prisoner shall advance a sum sufficient to defray the expenses and compensation of the officers, which the court shall tax as costs. When the party seeking the attendance of the prisoner is an agency of the Commonwealth or when the attendance is sought on motion of the court, no sum shall be advanced to defray the expenses or compensation of the correctional officers and sheriff nor shall any such sum be taxed as costs.

§ 16.1-276.3. *Use of telephonic communication systems or electronic video and audio communication systems to conduct hearing.*

Notwithstanding any other provision of law, in any civil proceeding under this chapter in which a

party or witness is incarcerated or when otherwise authorized by the court, the court may, in its discretion, conduct any hearing using a telephonic communication system or an electronic audio and video communication system to provide for the appearance of any parties and witnesses. Any electronic audio and video communication system used to conduct such a hearing shall meet the standards set forth in subsection B of § 19.2-3.1.

§ 17.1-513.2. Use of telephonic communication systems or electronic video and audio communication systems to conduct hearing.

Notwithstanding any other provision of law, in any civil proceeding in which a party or a witness is incarcerated or when otherwise authorized by the court, the court may, in its discretion, conduct any hearing using a telephonic communication system or an electronic audio and video communication system to provide for the appearance of any parties and witnesses. Any electronic audio and video communication system used to conduct such a hearing shall meet the standards set forth in subsection B of § 19.2-3.1.