

2001 SESSION

HOUSE SUBSTITUTE

010789984

HOUSE BILL NO. 1155

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 18, 2001)

(Patron Prior to Substitute—Delegate Weatherholtz)

A BILL to amend and reenact § 8.01-293 of the Code of Virginia, relating to who may serve process; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-293 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-293. Who to serve process.

A. The following persons are authorized to serve process:

1. The sheriff within such territorial bounds as described in § 8.01-295; or

2. Any person of age eighteen years or older and who is not a party or otherwise interested in the subject matter in controversy.

Whenever in this Code the term "officer" or "sheriff" is used to refer to persons authorized to make, return or do any other act relating to service of process, such term shall be deemed to refer to any person authorized by this section to serve process.

B. Notwithstanding any other provision of law (i) only a sheriff may execute an order or writ of possession for personal, real or mixed property, including an order or writ of possession arising out of an action in unlawful entry and detainer or ejectment; (ii) any sheriff or law-enforcement officer as defined in § 9-169 of the Code of Virginia may serve any capias or criminal show cause order; and (iii) only a sheriff, the high constable for the City of Norfolk or Virginia Beach or a treasurer may levy upon property.

C. Any person who is not a law-enforcement officer shall not be authorized by this section to serve process, unless such person has completed training as prescribed by the Board of Criminal Justice Services. The Board shall promulgate regulations, including regulations involving levying and collecting fees, provisions and minimal standards for training and recertification of such process servers.

D. No person who has been convicted of a felony and whose civil rights are unrestored shall be authorized by this section to serve process. Any person applying to the Department of Criminal Justice Services for authorization to serve process shall consent in writing, on a form to be provided by the Department, to have the Department obtain his criminal history record information.

E. Any person who violates the provisions of this section shall be guilty of a Class 3 misdemeanor.

2. That the provisions of this act shall become effective on January 1, 2002.

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