

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 299

An Act to amend and reenact §§ 17.1-208 and 17.1-265 of the Code of Virginia, relating to clerk of circuit court; military service discharge records.

[H 1209]

Approved April 1, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-208 and 17.1-265 of the Code of Virginia are amended and reenacted as follows:

§ 17.1-208. Records, etc., open to inspection; copies; exception.

~~The~~ *Except as otherwise provided by law, the records and papers of every circuit court shall be open to inspection by any person and the clerk shall, when required, furnish copies thereof, except in cases in which it is otherwise specially provided. The certificate of the clerk to such copies shall, if the paper copied be recorded in a bound volume, contain the name and number of the volume and the page or folio at which the recordation of the paper begins. No person shall be permitted to use the clerk's office for the purpose of making copies of records in such manner, or to such extent, as will interfere with the business of the office or with its reasonable use by the general public.*

§ 17.1-265. Recordation of evidence of discharge generally; confidentiality.

A. The clerk of the circuit court of the county or city wherein a person discharged from the armed forces of the United States resides shall record, upon presentation, free of charge, the original or a properly authenticated copy of either the discharge certificate or the report of separation from active duty (Department of Defense Document DD-214), or both.

B. Notwithstanding the provisions of § 17.1-208, discharge certificates and reports of separation from active duty recorded pursuant to this section shall be open for inspection and copying only by the following:

- 1. The subject of the record;*
- 2. The duly qualified conservator or guardian of the subject of the record;*
- 3. The duly qualified executor or administrator of the estate of the subject of the record, if deceased, or, in the event no executor or administrator has qualified, the next of kin of the deceased subject;*
- 4. An attorney, attorney-in-fact, or other agent or representative of any of the persons described in subdivision 1, 2 or 3, acting pursuant to a written power of attorney or other written authorization; or*
- 5. A duly authorized representative of an agency or instrumentality of federal, state, or local government seeking the record in the ordinary course of performing its official duties.*

Under the circumstances in which time is of the essence, including but not limited to, requests for copies of records attendant to the making of funeral arrangements or arrangements for medical care, the clerk, in ascertaining whether a person seeking access to discharge certificates or reports of separation from active duty is qualified to do so pursuant to this section, may rely upon the sworn statement of the requestor made in person before the clerk or his deputy.

C. Notwithstanding the provisions of subsection B, the clerk may permit access to discharge certificates or reports of separation from active duty of deceased persons for bona fide genealogical or other research purposes.

2. That this act shall not be construed to require clerks of circuit courts to redact, or otherwise to alter the form or the recordation medium of discharge certificates or reports of separation recorded on or before the effective date of the act.