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HOUSE BILL NO. 954

House Amendments in [] — January 31, 2002

A BILL to amend and reenact §§ 8.01-410 and 19.2-269.1 of the Code of Virginia, relating to inmates as witnesses.

Patron Prior to Engrossment—Delegate Barlow

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 8.01-410 and 19.2-269.1 of the Code of Virginia are amended and reenacted as follows:**

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

Whenever any party in a civil action in any circuit court in this Commonwealth shall require ~~requires~~ as a witness in his behalf, a convict or prisoner ~~an inmate~~ in a state [or local] correctional ~~or penal institution~~ facility 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 jurisdiction of the court issuing the order. *If authorized by the court, the clerk of the circuit court or a deputy clerk may issue these orders on behalf of the court.* The sheriff shall transport the ~~convict inmate~~ to the court to testify as such witness, and after he ~~shall have so~~ has testified and been released as such witness, the sheriff shall return the witness to the custody of the Department.

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

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~~ *an inmate* in the ~~institution~~ facility, which deposition, when taken, may be admissible in evidence as other depositions in civil actions.

The party seeking the testimony of such ~~prisoner inmate~~ 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.

§ 19.2-269.1. Inmates as witnesses in criminal cases.

Whenever the Commonwealth or a defendant in a criminal prosecution in any circuit court in this Commonwealth shall ~~require~~ *requires* as a witness in his behalf, a ~~convict or prisoner in a correctional or penal institution~~ *an inmate in a state [or local] correctional* facility as defined in § 53.1-1, the court, on the application of such defendant or his attorney, or the attorney for the Commonwealth, shall issue an order to the Director of the Department of Corrections to deliver such witness to the sheriff of the ~~county, or sergeant of the city, as the case may be, who~~ *jurisdiction of the court issuing the order. If authorized by the court, the clerk of the circuit court or a deputy clerk may issue these orders on behalf of the court.* The sheriff shall go where such witness may then be and carry him to the court to testify as such witness, and after he ~~shall have so~~ has testified and been released as such witness, carry him back to the place whence he came, for all of which service ~~such officers~~ *the sheriff* shall be paid out of the criminal expense funds in the state treasury such compensation as the court in which the case is pending may certify to be reasonable.

ENGROSSED

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