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HOUSE BILL NO. 2647

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact § 8.01-2 of the Code of Virginia, relating to persons under disability not to include incarcerated persons for the execution of certain documents.

Patron—Jones, S.C.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-2 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-2. General definitions for this title.

As used in this title, unless the context otherwise requires, the term:

1. "Action" and "suit" may be used interchangeably and shall include all civil proceedings whether upon claims at law, in equity, or statutory in nature and whether in circuit courts or district courts;

2. "Decree" and "judgment" may be used interchangeably and shall include orders or awards;

3. "Fiduciary" shall include any one or more of the following:

a. guardian,

b. committee,

c. trustee,

d. executor,

e. administrator, and administrator with the will annexed,

f. curator of the will of any decedent, or

g. conservator;

4. "Rendition of a judgment" means the time at which the judgment is signed and dated;

5. "Person" shall include individuals, a trust, an estate, a partnership, an association, an order, a corporation, or any other legal or commercial entity;

6. "Person under a disability" shall include:

a. a person convicted of a felony during the period he is confined, *except that such person shall not be considered a "person under disability" for purposes of executing a will, power of attorney, or deed or deed of trust;*

b. an infant;

c. an incapacitated person as defined in § 37.2-1000;

d. an incapacitated ex-service person under § 37.2-1016; or

e. any other person who, upon motion to the court by any party to an action or suit or by any person in interest, is determined to be (i) incapable of taking proper care of his person, or (ii) incapable of properly handling and managing his estate, or (iii) otherwise unable to defend his property or legal rights either because of age or temporary or permanent impairment, whether physical, mental, or both. Such impairment may also include substance abuse as defined in § 37.2-100;

7. "Sheriff" shall include deputy sheriffs and such other persons designated in § 15.2-1603;

8. "Summons" and "subpoena" may be used interchangeably and shall include a subpoena duces tecum for the production of documents and tangible things;

9. "Court of equity," "law and equity court," "law and chancery court," "chancery court," "corporation court," "the chancery side," "court exercising powers in chancery," "court with equitable jurisdiction," and "receivership court" shall mean the circuit court when entertaining equitable claims;

10. A "motion for judgment," "bill," "bill of complaint," or "bill in equity" shall mean a complaint in a civil action, as provided in the Rules of Supreme Court of Virginia;

11. "Equity practice," "equity procedure," "chancery practice," and "chancery procedure" shall mean practice and procedure in a civil action as prescribed by this Code and the Rules of Supreme Court of Virginia.

INTRODUCED

HB2647