

2009 SESSION

INTRODUCED

098243520

HOUSE BILL NO. 2302

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend the Code of Virginia by adding a section numbered 8.01-6.3, relating to naming the fiduciary or the subject of the fiduciary relationship as the party of interest in an action.

Patron—Griffith

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-6.3 as follows:

§ 8.01-6.3. Amendment of pleadings; relation back to original pleadings; incapacitated persons and decedents; fiduciaries.

Any action or suit, including an action for wrongful death pursuant to Article 5 (§ 8.01-50 et seq.) of Chapter 3, which alleges a claim on behalf of or against a party that may be prosecuted or defended in the name of a fiduciary shall not abate or be defeated for naming or failing to name the subject of the fiduciary relationship provided the subject of the fiduciary relationship can be ascertained from the face of the original pleadings. Whenever it appears by affidavit or otherwise that there has been a failure to name the fiduciary as a party or that the subject of the fiduciary relationship, but not the fiduciary, is named in the original pleadings, the court may amend the pleadings as the ends of justice may require and such amendment shall relate back to the original pleading.

This section shall be given retroactive and prospective effect.

INTRODUCED

HB2302