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HOUSE BILL NO. 453

Offered January 13, 2010
Prefiled January 12, 2010

A BILL to amend and reenact § 16.1-264 of the Code of Virginia, relating to service of notice of protective order by law-enforcement officer.

Patron—Herring

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-264 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-264. Service of summons; service of protective orders; proof of service; penalty.

A. If a party designated in *subsection A of* § 16.1-263 ~~A~~ to be served with a summons can be found within the Commonwealth, the summons shall be served upon him in person or by substituted service as prescribed in subdivision 2 of § 8.01-296.

If a party designated to be served in § 16.1-263 is without the Commonwealth but can be found or his address is known, or can with reasonable diligence be ascertained, service of summons may be made either by delivering a copy thereof to him personally or by mailing a copy thereof to him by certified mail return receipt requested.

If after reasonable effort a party other than the person who is the subject of the petition cannot be found or his post-office address cannot be ascertained, whether he is within or without the Commonwealth, the court may order service of the summons upon him by publication in accordance with the provisions of §§ 8.01-316 and 8.01-317.

A1. Any person who is subject to a protective order issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, or 19.2-152.10 shall be deemed to have been personally served with the protective order when a law-enforcement officer, as defined in § 9.1-101, personally provides to such person (i) a copy of the order or (ii) a notification of the issuance of the order, which shall be on a form approved by the Supreme Court of Virginia. The officer making service shall enter or cause to be entered the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court.

B. Service of summons may be made under the direction of the court by sheriffs, their deputies and police officers in counties and cities or by any other suitable person designated by the court. However, in any case in which custody or visitation of a minor child or children is at issue and a summons is issued for the attendance and testimony of a teacher or other school personnel who is not a party to the proceeding, if such summons is served on school property, it shall be served only by a sheriff or his deputy.

C. Proof of service may be made by the affidavit of the person other than an officer designated in subsection B hereof who delivers a copy of the summons to the person summoned, but if served by a state, county or municipal officer his return shall be sufficient without oath.

D. The summons shall be considered a mandate of the court and willful failure to obey its requirements shall subject any person guilty thereof to liability for punishment as for contempt.

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