

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 223

An Act to amend and reenact § 8.01-390.3 of the Code of Virginia, relating to admissibility of business records; criminal proceedings.

[H 1903]

Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-390.3 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-390.3. Business records as evidence (Subdivision (6) of Supreme Court Rule 2:902 derived in part from this section).

A. In any ~~civil~~ proceeding where a business record is material and otherwise admissible, authentication of the record and the foundation required by subdivision (6) of Rule 2:803 of the Rules of Supreme Court of Virginia may be laid by (i) witness testimony, (ii) a certification of the authenticity of and foundation for the record made by the custodian of such record or other qualified witness either by affidavit or by declaration pursuant to § 8.01-4.3, or (iii) a combination of witness testimony and a certification.

B. The proponent of a business record shall (i) give written notice to all other parties if a certification under this section will be relied upon in whole or in part in authenticating and laying the foundation for admission of such record and (ii) provide a copy of the record and the certification to all other parties, so that all parties have a fair opportunity to challenge the record and certification. The notice and copy of the record and certification shall be provided no later than 15 days in advance of the trial or hearing, unless an order of the court specifies a different time. Objections shall be made within five days thereafter, unless an order of the court specifies a different time. If any party timely objects to reliance upon the certification, the authentication and foundation required by subdivision (6) of Rule 2:803 of the Rules of Supreme Court of Virginia shall be made by witness testimony unless the objection is withdrawn.

C. A certified business record that satisfies the requirements of this section shall be self-authenticating and requires no extrinsic evidence of authenticity.

D. A copy of a business record may be offered in lieu of an original upon satisfaction of the requirements of subsection D of § 8.01-391 by witness testimony, a certification, or a combination of testimony and a certification.