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SENATE BILL NO. 1360

Offered January 11, 2017

Prefiled January 11, 2017

A *BILL to amend and reenact §§ 2.2-507 and 16.1-88.03 of the Code of Virginia, relating to the Department of Military Affairs; civil actions.*

Patron—Reeves

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-507 and 16.1-88.03 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-507. Legal service in civil matters.**

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. (Effective until July 1, 2018) Members, agents, or employees of the Alcoholic Beverage Control Board;

1. (Effective July 1, 2018) Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority;

2. Agents inspecting or investigators appointed by the State Corporation Commission;

3. Agents, investigators, or auditors employed by the Department of Taxation;

4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Corrections, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;

5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;

6. Persons employed by the Commissioner of Motor Vehicles;

7. Persons appointed by the Commissioner of Marine Resources;

8. Police officers appointed by the Superintendent of State Police;

9. Conservation police officers appointed by the Department of Game and Inland Fisheries;

10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;

11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;

13. Conservation officers of the Department of Conservation and Recreation; or

14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

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59 Upon request of the affected individual, the Attorney General may represent personally or through
60 one of his assistants any basic or advanced emergency medical care attendant or technician possessing a
61 valid certificate issued by authority of the State Board of Health in any civil matter in which a defense
62 of immunity from liability is raised pursuant to § 8.01-225.

63 C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal
64 service to be rendered by him or one of his assistants, he may employ special counsel for this purpose,
65 whose compensation shall be fixed by the Attorney General. The compensation for such special counsel
66 shall be paid out of the funds appropriated for the administration of the board, commission, division, or
67 department being represented or whose members, officers, inspectors, investigators, or other employees
68 are being represented pursuant to this section. Notwithstanding any provision of this section to the
69 contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties
70 in which it, or any justice, is a party.

71 *D. Nothing herein shall limit the powers granted in § 16.1-88.03.*

72 **§ 16.1-88.03. Pleadings and other papers by certain parties not represented by attorneys.**

73 A. Any corporation, partnership, limited liability company, limited partnership, professional
74 corporation, professional limited liability company, registered limited liability partnership, registered
75 limited liability limited partnership or business trust *and the Department of Military Affairs*, when the
76 amount claimed in any civil action pursuant to subdivision (1) or (3) of § 16.1-77 does not exceed the
77 jurisdictional amounts authorized in such subsections, exclusive of interest, may prepare, execute, file,
78 and have served on other parties in any proceeding in a general district court a warrant in debt, motion
79 for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim,
80 crossclaim, suggestion for summons in garnishment, garnishment summons, writ of possession, writ of
81 fieri facias, interpleader and civil appeal notice without the intervention of an attorney. Such papers may
82 be signed by a corporate officer, a manager of a limited liability company, a general partner of any form
83 of partnership or a trustee of any business trust, or such corporate officer, with the approval of the board
84 of directors, or manager, general partner or trustee may authorize in writing an employee, a person
85 licensed under the provisions of § 54.1-2106.1, a property manager, or a managing agent of a landlord
86 as defined in § 55-248.4 to sign such papers as the agent of the business entity. *Only an agency*
87 *employee designated in writing by the Adjutant General may sign such papers on behalf of the*
88 *Department of Military Affairs.* However, this section shall not apply to an action under subdivision (1)
89 or (3) of § 16.1-77 which was assigned to a corporation, partnership, limited liability company, limited
90 partnership, professional corporation, professional limited liability company, registered limited liability
91 partnership, registered limited liability limited partnership or business trust, or individual solely for the
92 purpose of enforcing an obligation owed or right inuring to another.

93 B. Nothing in this section shall allow a nonlawyer to file a bill of particulars or grounds of defense
94 or to argue motions, issue a subpoena, rule to show cause, or capias; file or interrogate at debtor
95 interrogatories; or to file, issue or argue any other paper, pleading or proceeding not set forth in
96 subsection A.

97 C. The provisions of § 8.01-271.1 shall apply to any pleading, motion or other paper filed or made
98 pursuant to this section.

99 D. Parties not represented by counsel, and who have made an appearance in the case, shall promptly
100 notify in writing the clerk of court wherein the litigation is pending, and any adverse party, of any
101 change in the party's address necessary for accurate mailing or service of any pleadings or notices. In
102 the absence of such notification, a mailing to or service upon a party at the most recent address
103 contained in the court file of the case shall be deemed effective service or other notice.