

LD8349376

HOUSE BILL NO. 446

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 11, 1994)

(Patron Prior to Substitute—Delegate Murphy)

A BILL to amend and reenact §§ 26-13 and 26-18 of the Code of Virginia, relating to filing of inventories by fiduciaries; enforcement.

Be it enacted by the General Assembly of Virginia:

1. That §§ 26-13 26-18 of the Code of Virginia are amended and reenacted as follows:

§ 26-13. Enforcing filing of such inventories.

If any such fiduciary fail fails to make the return required by § 26-12, the commissioner shall issue, through the sheriff or other proper officer, a summons to such the fiduciary, requiring directing him to make such return; and if such return be not made within thirty days after the date of service of the summons, the commissioner shall report the fact to his court. The court shall immediately thereupon order a summons to the fiduciary, requiring him to appear; and upon his appearing unless excused for sufficient reason, he shall appear before the court to show cause why (i) the court should not set a date when the return required by § 26-12 shall be made and (ii) the fiduciary should not be fined by the court in a sum not to exceed \$500.

Upon the fiduciary being served by a sheriff or other proper officer, the court, on the return date of the summons, shall order the fiduciary to (i) make the return to the commissioner within such time as the court may prescribe and (ii) pay a fine not to exceed \$500 unless excused for sufficient reason. In the event the fiduciary was served but not present on the return date of the summons, the court shall cause a copy of the court order to be served on the fiduciary.

If the fiduciary still fail fails to make the return within such time as the court may prescribe, he shall be deemed guilty of contempt of court, and be dealt with accordingly comply with the order of the court, the court shall take action against the fiduciary for contempt of court under § 18.2-456 (5).

§ 26-18. Failure to make settlement; enforcement.

If any such fiduciary fail to make any such exhibit, as required by § 26-17, the commissioner and the court shall proceed against him in like manner, and the court shall impose the same penalty, unless such fiduciary is excused for sufficient reason, as is herein provided in cases in which fiduciaries fail to return inventories of their respective estates. Every commissioner shall file with his court or judge, and a duplicate in the clerk's office, in the months of April and October, a list of all fiduciaries required to make periodic settlements who have failed to make such settlements as required; and, at the same times, with like duplicate with the clerk, a report of all fiduciary accounts which have been before him for more than three months and which remain unsettled. Upon the filing of this list the clerk shall issue a summons against each fiduciary shown thereon returnable to the first day of the next term of court and the court shall take action against such fiduciary in accordance with § 26-13 for failure to file inventories. The commissioner shall file monthly with the court a list of all fiduciaries who have failed to make settlements required by §§ 26-17.3 through 26-17.10. Promptly after filing, the commissioner and the court shall proceed against the fiduciaries listed as provided in § 26-13. Whenever the commissioner issues a summons to a fiduciary, who is an attorney at law licensed to practice in the Commonwealth, to appear for failure to make settlements, a copy of the order shall be mailed by the commissioner to the Virginia State Bar.