

LD6209739

SENATE BILL NO. 794

Senate Amendments in [] — February 3, 1995

A BILL to amend and reenact §§ 8.01-314 and 13.1-637 of the Code of Virginia, relating to service of process; use of facsimile.

Patrons—Stolle; Delegates: Callahan, Forbes, Kilgore, Wagner, Wardrup and Wilkins

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-314 and 13.1-637 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-314. Service on attorney after entry of general appearance by such attorney.

When an attorney authorized to practice law in this Commonwealth has entered a general appearance for any party, any process, order or other legal papers to be used in the proceeding may be served on ~~such~~ the attorney of record. Such service *may be made in accordance with § 8.01-296 or by facsimile as provided in this section* and shall have the same effect as if service had been made upon ~~such~~ the party personally; ~~provided, however, that~~ *However*, in any proceeding in which a final decree or order has been entered, service on an attorney as provided herein shall not be sufficient to constitute personal jurisdiction over a party in any proceeding citing that party for contempt, either civil or criminal, unless personal service is also made on the party.

Service by facsimile is effective if the attorney of record (i) has authorized service by facsimile, in writing and (ii) returns an acknowledgement of receipt to the [~~serving officer~~ sheriff] by facsimile. A photographic copy of the written authorization for service by facsimile and the acceptance shall be attached to the return.

~~Provided, further, that if such~~ *If an attorney objects, by motion filed within five days after such* a legal paper has been ~~so~~ served upon him *as provided in this section*, the court shall enter an order in the proceeding directing the manner of service of such legal paper.

§ 13.1-637. Service on corporation.

A. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation. The registered agent may by instrument in writing, acknowledged before a notary public, designate a person or persons in the office of the registered agent upon whom any such process, notice or demand may be served *and may, by instrument in writing, authorize service of process by facsimile, provided acknowledgement of receipt of service is returned by facsimile to the [~~serving officer~~ sheriff]*. Whenever any ~~such~~ person *so designated by the registered agent* accepts service of process *or whenever service is by facsimile*, a photographic copy of ~~such instrument~~ *the instruments designating the person or authorizing the method of service and receipt* shall be attached to the return.

B. Whenever a corporation fails to appoint or maintain a registered agent in this Commonwealth, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the clerk of the Commission shall be an agent of the corporation upon whom service may be made in accordance with § 12.1-19.1.

C. This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

ENGROSSED

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