

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 754

*An Act to amend and reenact § 8.01-320 of the Code of Virginia, as it is currently effective and as it may become effective, relating to service of process.*

[H 2539]

Approved March 22, 1997

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-320 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted as follows:**

§ 8.01-320. Personal service outside of Virginia.

A. Personal service of a process on a nonresident person outside the Commonwealth may be made by: (i) any person authorized to serve process in the jurisdiction where the party to be served is located; or (ii) any person eighteen years of age or older who is not a party or otherwise interested in the subject matter of the controversy and notwithstanding any other provision of law to the contrary, such person need not be authorized by the circuit court to serve process which commences divorce or annulment actions. *When the court can exercise jurisdiction over the nonresident pursuant to § 8.01-328.1, such service shall have the same effect as personal service on the nonresident within Virginia.* Such service *when no jurisdiction can be exercised pursuant to § 8.01-328.1*, or service in accordance with the provisions of subdivision 2 a of § 8.01-296 shall have the same effect, and no other, as an order of publication duly executed, or the publication of a copy of process under this chapter, as the case may be; however, depositions may be taken at any time after twenty-one days' notice of the taking of the depositions has been personally served. The person so served shall be in default upon his failure to file a pleading in response to original process within twenty-one days after such service. If no responsive pleading is filed within the time allowed by law, the case may proceed without service of any additional pleadings, including the notice of the taking of depositions.

*Any person served pursuant to the provisions of this section prior to January 1, 1970, (when under prior law affidavit required stating time and place of service and that the person was a nonresident) shall be deemed to have been a nonresident of the Commonwealth even though the return fails to state that the person so served was a nonresident of the Commonwealth.*

B. Any personal service of process outside of this Commonwealth executed in such manner as is provided for in this section prior or subsequent to October 1, 1977, in a divorce or annulment action is hereby validated. *Personal service of process outside this Commonwealth in a divorce or annulment action may be executed as provided in this section.*

§ 8.01-320. (Delayed effective date) Personal service outside of Virginia.

A. Personal service of a process on a nonresident person outside the Commonwealth may be made by: (i) any person authorized to serve process in the jurisdiction where the party to be served is located or (ii) any person eighteen years of age or older who is not a party or otherwise interested in the subject matter of the controversy. *When the court can exercise jurisdiction over the nonresident pursuant to § 8.01-328.1, such service shall have the same effect as personal service on the nonresident within Virginia.* Such service *when no jurisdiction can be exercised pursuant to § 8.01-328.1*, or service in accordance with the provisions of subdivision 2 a of § 8.01-296 shall have the same effect, and no other, as an order of publication duly executed, or the publication of a copy of process under this chapter, as the case may be; however, depositions may be taken at any time after twenty-one days' notice of the taking of the depositions has been personally served. The person so served shall be in default upon his failure to file a pleading in response to original process within twenty-one days after such service. If no responsive pleading is filed within the time allowed by law, the case may proceed without service of any additional pleadings, including the notice of the taking of depositions.

*Any person served pursuant to the provisions of this section prior to January 1, 1970, (when under prior law affidavit required stating time and place of service and that the person was a nonresident) shall be deemed to have been a nonresident of the Commonwealth even though the return fails to state that the person so served was a nonresident of the Commonwealth.*

B. Any personal service of process outside of this Commonwealth executed in such manner as is provided for in this section prior or subsequent to October 1, 1977, in a divorce or annulment action is hereby validated. *Personal service of process outside this Commonwealth in a divorce or annulment action may be executed as provided in this section.*