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HOUSE BILL NO. 1657

Offered January 8, 1997

Prefiled January 6, 1997

A BILL to amend and reenact § 8.01-264 of the Code of Virginia, relating to time limit for objecting to improper venue.

Patron—McEachin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-264 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-264. Venue improperly laid; objection.

A. Venue laid in forums other than those designated by this chapter shall be subject to objection, but no action shall be dismissed solely on the basis of venue if there ~~be~~^{is} a forum in the Commonwealth where venue is proper. In actions where venue is subject to objection, the action may nevertheless be tried where it is commenced, and the venue irregularity shall be deemed to have been waived unless the defendant objects to venue by motion filed, as to actions in *both district courts and* circuit courts, within twenty-one days after service of process commencing the action, or within the period of any extension of time for filing responsive pleadings fixed by order of the court. As to actions in general district courts, a motion objecting to venue, ~~which~~ may be in the form of a letter or other written communication, ~~shall be~~ filed with or received by the court on or before the ~~day of trial expiration of~~ *twenty-one days following service of process commencing the action*. Waiver by any defendant shall not constitute waiver for any other defendant entitled to object to venue. Such motion shall set forth where the defendant believes venue to be proper, may be in writing, and shall be promptly heard by the court upon reasonable notice by any party. The court shall hear the motion only on the basis of the action as commenced against the original defendant and not on the basis of subsequent joinder or intervention of any other party. If such motion is sustained, the court shall order the venue transferred to a proper forum under the appropriate provisions of §§ 8.01-195.4, 8.01-260, 8.01-261 and 8.01-262 and shall so notify each party.

B. In the event a party defendant whose presence created venue is dismissed after the parties are at issue, then the remaining parties defendant may object to venue within ten days after such dismissal if the remaining defendants can demonstrate that the dismissed defendant was not properly joined or was added as a party defendant for the purpose of creating venue. However, nothing in this section shall impair the right of the court under § 8.01-265 to retain the action for trial on motion of a plaintiff and for good cause shown.

C. The initial pleading, in any action brought in a general district court, shall inform the defendant of his right to object to venue if the action is brought in any forum other than that specified in §§ 8.01-261, 8.01-262, or § 8.01-263. The information to the defendant shall be stated in clear, nontechnical language reasonably calculated to accomplish the purpose of this ~~subsection~~ *section*.

D. Where a suit described in subdivision 19 of § 8.01-261 is filed in a venue that is not described therein, the court, on its own motion and upon notice to all parties, may transfer the suit to a venue described in such subdivision provided the transfer is implemented within sixty days after service of process upon all parties.

INTRODUCED

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