

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 596

An Act to amend and reenact §§ 8.01-271.1 and 8.01-410 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 8.01-243.2 and 8.01-644.1 and by adding in Article 3 of Chapter 1 of Title 53.1 a section numbered 53.1-60.1, relating to actions by and on behalf of prisoners; limitations; court costs and fees; court-imposed debt.

[S 648]

Approved April 15, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-271.1 and 8.01-410 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 8.01-243.2 and 8.01-644.1 and by adding in Article 3 of Chapter 1 of Title 53.1 a section numbered 53.1-60.1 as follows:

§ 8.01-243.2. Limitations of actions by confined persons; exhaustion.

No person confined in a state correctional facility shall bring or have brought on his behalf any personal action relating to the conditions of his confinement until all available administrative remedies are exhausted. Such action shall be brought by or on behalf of such person within one year after cause of action accrues or within six months after all administrative remedies are exhausted, whichever occurs later.

§ 8.01-271.1. Signing of pleadings, motions, and other papers; oral motions; sanctions.

Every pleading, written motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, and the attorney's address shall be stated on the first pleading filed by that attorney in the action. A party who is not represented by an attorney, including a person confined in a state or local correctional facility proceeding *pro se*, shall sign his pleading, motion, or other paper and state his address.

The signature of an attorney or party constitutes a certificate by him that (i) he has read the pleading, motion, or other paper, (ii) to the best of his knowledge, information and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and (iii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, written motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

An oral motion made by an attorney or party in any court of the Commonwealth constitutes a representation by him that (i) to the best of his knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (ii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

If a pleading, motion, or other paper is signed or made in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed the paper or made the motion, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper or making of the motion, including a reasonable attorney's fee.

§ 8.01-410. Convicts as witnesses in civil actions.

Whenever any party in a civil action in any circuit court in this Commonwealth shall require as a witness in his behalf, a convict or prisoner in a correctional or penal institution as defined in § 53.1-1, the court, on the application of such party or his attorney may, in ~~his~~ *its* discretion and upon consideration of the importance of the personal appearance of the witness and the nature of the offense for which he is imprisoned, issue an order to the Director of the Department of Corrections to deliver such witness to the sheriff of the county or the city, as the case may be, who shall go where such witness may then be. Under such conditions as shall be prescribed by the superintendent of the institution, such officer shall carry the convict to the court to testify as such witness, and after he shall have so testified and been released as such witness, carry him back to the place whence he came.

If necessary the sheriff may confine the convict for the night in any convenient city or county correctional institution.

Under such rules and regulations as the superintendent of such an institution may prescribe, any party to a civil action in any circuit court in this Commonwealth may take the deposition of a convict or prisoner in the institution, which deposition, when taken, may be admissible in evidence as other depositions in civil actions.

The party seeking the testimony of such prisoner shall advance a sum sufficient to defray the expenses and compensation of the officers, which the court, ~~in its discretion,~~ *may shall* tax as other

costs.

§ 8.01-644.1. Limitations of actions for petition for mandamus.

A petition for extraordinary writ of mandamus, filed by or on behalf of a person confined in a state correctional facility, shall be brought within one year after the cause of action accrues.

§ 53.1-60.1. Duties of Director in collecting court-imposed debt.

Upon receipt of a valid court order or judgment against a person confined in a state correctional facility, the Director or his designee shall satisfy, to the extent possible, the amount required to be paid by the order or judgment from the inmate's trust account. The Director shall promulgate regulations governing the process of collecting funds from inmates to be used for (i) the satisfaction of judgments or orders granting monetary relief or imposing fines or other monetary sanctions or (ii) payment of court costs and fees.