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SENATE BILL NO. 450

Offered January 26, 1998

A BILL to amend and reenact § 16.1-69.40 of the Code of Virginia, relating to powers of clerks; district courts; fieri facias

Patrons—Norment; Delegate: Morgan

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-69.40 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-69.40. Powers and duties of clerks.

The clerk and deputy clerks shall be conservators of the peace within the territory for which the court has jurisdiction, and may, within such judicial district, issue warrants, detention orders, and other processes, original, mesne and final, both civil and criminal, commit to jail or other detention facility, or admit to bail upon recognizance, persons charged with crimes or before the court on civil petition, subject to the limitations set forth by law, and issue subpoenas for witnesses, writs of fieri facias and writs of possession, attachments and garnishments and abstracts of judgments. *Upon a judgment being rendered for fines, costs or other fees, a writ of fieri facias shall be issued within twenty-one days and made returnable within ninety days to the court from which it was issued. The provisions of §§ 16.1-98, 16.1-99 and 16.1-100 shall apply, mutatis mutandis, to such writs issued in the juvenile and domestic relations district courts.*

A record made in the performance of the clerk's official duties may be authenticated as a true copy by the clerk or by a deputy clerk without additional authentication by the judge to whom the clerk reports, notwithstanding the provisions of subsection B of § 8.01-391.

No clerk or deputy clerk shall issue any warrant or process based on complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, first cousin, guardian or ward. They may take affidavits and administer oaths and affirmations, take and certify depositions in the same manner as a notary public, take acknowledgments to deeds or other writings for purposes of recordation, and issue all other legal processes which may be issued by the judge of such court and exercise such other powers and perform such other duties as are conferred or imposed upon them by law. The clerk may also issue to interested persons informational brochures authorized by a judge of such court explaining the legal rights of such persons.

The clerk shall develop, implement and administer procedures necessary for the efficient operation of the clerk's office, keep the records and accounts of the court, supervise nonjudicial personnel and discharge such other duties as may be prescribed by the judge.