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HOUSE BILL NO. 1213

House Amendments in [] — February 6, 2002

A *BILL to amend and reenact §§ 37.1-134.7 and 37.1-134.13:1 of the Code of Virginia, relating to guardianship and conservatorship; court costs and fees for attorneys.*

Patron Prior to Engrossment—Delegate Thomas

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.1-134.7 and 37.1-134.13:1 of the Code of Virginia are amended and reenacted as follows:

§ 37.1-134.7. Filing of petition; jurisdiction; fees; instructions to be provided.

A. A petition for the appointment of a guardian or conservator shall be filed with the circuit court of the county or city in which the respondent is a resident or is located or in which the respondent resided immediately prior to becoming a patient, voluntarily or involuntarily, in a hospital or a resident in a nursing facility or nursing home, convalescent home, state hospital for the mentally ill, assisted living facility as defined in § 63.1-172 or any other similar institution; or if the petition is for the appointment of a conservator for a nonresident with property in the state, in the city or county in which the respondent's property is located.

B. Instructions regarding the duties, powers and liabilities of guardians and conservators shall be provided to each clerk of court by the Office of the Executive Secretary of the Supreme Court, and the clerk shall provide such information to each guardian and conservator upon notice of appointment.

C. The circuit court in which the proceeding is first commenced may order a transfer of venue if it would be in the best interest of the respondent.

D. The petitioner shall pay the filing fee as provided in subdivision A 43 of § 17.1-275 and costs. Service fees and courts costs may be waived by the court if it is alleged under oath that the estate of the respondent is unavailable or insufficient. If a guardian or conservator is appointed and the estate of the incapacitated person is available and sufficient therefor, the court shall order that the petitioner be reimbursed from the estate for all costs and fees. *If a guardian or conservator is not appointed and the Court nonetheless finds that the petition is brought in good faith and for the benefit of the respondent, the court [shall may] direct the respondent's estate, if available and sufficient, to reimburse the petitioner for all costs and fees.*

§ 37.1-134.13:1. Fees and costs.

In any proceeding filed pursuant to this article, if the adult subject of the petition is determined to be indigent, any fees, *including fees for the petitioner's attorney, the respondent's attorney and the guardian ad litem*, and costs of the proceeding which are fixed by the court or taxed as costs shall be borne by the Commonwealth.

ENGROSSED

HB1213E