

2008 SESSION

INTRODUCED

080213228

SENATE BILL NO. 213

Offered January 9, 2008

Prefiled January 7, 2008

A *BILL to amend and reenact § 37.2-1026 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.01-271.2, relating to naming the represented persons or the fiduciary in the action as the party of interest.*

Patron—Edwards

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 37.2-1026 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.01-271.2 as follows:

§ 8.01-271.2. Pleadings; persons named in the action.

In all actions or suits involving a party that is being represented by an executor, administrator, conservator, guardian, committee, or trustee, either the party or the person representing the party may be named as the party as long as the fiduciary relationship is clearly identified. No action or suit shall abate for naming either the represented party or the executor, administrator, conservator, guardian, committee, or trustee as the party to the action.

This section shall be given retroactive and prospective effect.

§ 37.2-1026. Fiduciary to prosecute and defend.

All actions or suits to which the incapacitated person is a party at the time of qualification of the fiduciary and all such actions or suits subsequently instituted shall, subject to any conditions or limitations set forth in the order appointing him, be prosecuted or defended, as the case may be, by the fiduciary, after 10 days' notice of the pendency thereof, which notice shall be given by the clerk of the court in which the same are pending.

In all such actions or suits, either the fiduciary or the incapacitated person may be named as the party to the action as long as the fiduciary relationship is clearly identified. No action or suit shall abate for naming the incapacitated person as the party to the action.

This section shall be given retroactive and prospective effect.

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