

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 8.01-301 and 19.2-267 of the Code of Virginia and to amend the Code of*  
 3 *Virginia by adding a section numbered 8.01-301.1, relating to civil and criminal actions; service of*  
 4 *subpoena for certain electronic records.*

5 [H 1500]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That §§ 8.01-301 and 19.2-267 of the Code of Virginia are amended and reenacted and that the Code**  
 9 **of Virginia is amended by adding a section numbered 8.01-301.1 as follows:**

10 **§ 8.01-301. How process served on foreign stock or nonstock corporations and foreign limited**  
 11 **liability companies generally.**

12 Subject to § 8.01-286.1, service of process on a foreign stock or nonstock corporation or a foreign limited  
 13 liability company may be effected in the following manner:

14 1. By personal service on any officer or director or the registered agent of a foreign stock or nonstock  
 15 corporation that is authorized to do business in the Commonwealth, by personal service on any agent of any  
 16 such foreign corporation transacting business in the Commonwealth without such authorization, wherever  
 17 any such officer, director, or agents be found within the Commonwealth, and by personal service on the  
 18 registered agent of a foreign limited liability company that is registered to do business in the Commonwealth;

19 2. By substituted service on (i) a foreign stock or nonstock corporation in accordance with §§ 13.1-766  
 20 and 13.1-928, respectively, and on a foreign limited liability company in accordance with § 13.1-1018, if any  
 21 such corporation or limited liability company is authorized or registered to transact business or affairs within  
 22 the Commonwealth, and (ii) a foreign stock or nonstock corporation in accordance with subsection F of  
 23 § 13.1-758 and subsection E of § 13.1-920, respectively, and on a foreign limited liability company in  
 24 accordance with subsection E of § 13.1-1057, if any such corporation or limited liability company is not  
 25 authorized or registered to transact business within the Commonwealth;

26 3. By substituted service on a foreign stock or nonstock corporation or foreign limited liability company  
 27 in accordance with § 8.01-329, or by service in accordance with § 8.01-320, where jurisdiction is authorized  
 28 under § 8.01-328.1, regardless of whether any such foreign corporation or foreign limited liability company is  
 29 authorized or registered to transact business within the Commonwealth; or

30 4. By order of publication in accordance with §§ 8.01-316 and 8.01-317 where jurisdiction in rem or quasi  
 31 in rem is authorized, regardless of whether the foreign stock or nonstock corporation or foreign limited  
 32 liability company so served is authorized or registered to transact business within the Commonwealth.

33 This section does not prescribe the only means, or necessarily the required means, of serving a foreign  
 34 stock or nonstock corporation or foreign limited liability company.

35 For the purposes of responding to a subpoena served in the manner prescribed by this section, a foreign  
 36 corporation transacting business in the Commonwealth that has a registered agent in the Commonwealth shall  
 37 be deemed to have consented to service *and shall respond to such subpoena in a manner consistent with the*  
 38 *laws of the Commonwealth and the Rules of the Supreme Court of Virginia.*

39 **§ 8.01-301.1. Subpoena for production of electronic records, etc., from nonparty commercial**  
 40 **enterprise.**

41 *In addition to the methods by which service of process may be effected pursuant to § 8.01-301, when a*  
 42 *party in a civil action issues a subpoena for electronic records, electronically stored information, or other*  
 43 *documents or records that are stored outside of the Commonwealth by a nonparty commercial enterprise,*  
 44 *whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in*  
 45 *the Commonwealth, such subpoena may be served on such commercial enterprise within or outside of the*  
 46 *Commonwealth by hand, certified mail, commercial delivery service, facsimile, or electronic means.*

47 **§ 19.2-267. Provisions applicable to witnesses in criminal as well as civil cases; obligation to attend;**  
 48 **summons.**

49 Sections 8.01-301.1, 8.01-396.1, 8.01-402, 8.01-405, 8.01-407, and 8.01-408 to 8.01-410, ~~inclusive~~, shall  
 50 apply to a criminal as well as a civil case in all respects, except that a witness in a criminal case shall be  
 51 obliged to attend, and may be proceeded against for failing to do so, although there may not previously have  
 52 been any payment; or tender to him of anything for attendance, mileage, or tolls. In a criminal case, a  
 53 summons for a witness may be issued by the attorney for the Commonwealth or other attorney charged with  
 54 the responsibility for the prosecution of a violation of any ordinance or by the attorney for the defendant;  
 55 however, any attorney who issues such a summons shall, at the time of the issuance, file with the clerk of the  
 56 court the names and addresses of such witnesses except to the extent protected under § 19.2-11.2.