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HOUSE BILL NO. 418

Offered January 10, 2024

Prefiled January 8, 2024

A BILL to amend and reenact § 8.01-267.1 of the Code of Virginia, relating to civil actions filed on behalf of multiple persons.

Patron—Simon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-267.1 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-267.1. Standards governing consolidation, etc., and transfer.

On motion of any party, a circuit court may enter an order certifying a class or joining, coordinating, consolidating, or transferring civil actions as provided in this chapter upon finding that:

1. Separate civil actions brought by (i) six or more plaintiffs or (ii) a plaintiff on behalf of multiple similarly situated persons involve common questions of law or fact and arise out of the same transaction, occurrence, or series of transactions or occurrences;

2. The common questions of law or fact predominate and are significant to the actions; and

3. The order (i) will promote the ends of justice and the just and efficient conduct and disposition of the actions, and (ii) is consistent with each party's right to due process of law, and (iii) does not prejudice each individual party's right to a fair and impartial resolution of each action.

Factors to be considered by the court include, but are not limited to, (i) the nature of the common questions of law or fact; (ii) the convenience of the parties, witnesses, and counsel; (iii) the relative stages of the actions and the work of counsel; (iv) the efficient utilization of judicial facilities and personnel; (v) the calendar of the courts; (vi) the likelihood and disadvantages of duplicative and inconsistent rulings, orders, or judgments; (vii) the likelihood of prompt settlement of the actions without the entry of the order; and (viii) access to justice for the potential class; and (i) as to joint trials by jury, the likelihood of prejudice or confusion.

The court may organize and manage the combined litigation and enter further orders consistent with due process and the right of each party to a fair trial as may be appropriate to avoid unnecessary costs, duplicative litigation, or delay and to assure fair and efficient conduct and resolution of the litigation, including orders that organize the parties into groups with like interest; appoint counsel to have lead responsibility for certain matters; require notice to potential class members; allocate costs and attorney fees to separate issues into common questions that require treatment on a consolidated basis and individual cases that do not; and stay discovery on the issues that are not consolidated.

2. That the Supreme Court of Virginia shall promulgate rules governing the joining, coordinating, consolidating, or transferring of actions pursuant to this act. Such rules shall be no more restrictive than those contained in Rule 23 of the Federal Rules of Civil Procedure.

3. That the provisions of this act shall become effective on January 1, 2025.

INTRODUCED

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