

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 300

An Act to amend and reenact § 16.1-278.15 of the Code of Virginia, as it is currently effective and as it shall become effective, relating to custody and visitation.

[H 1224]

Approved April 1, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-278.15 of the Code of Virginia, as it is currently effective and as it shall become effective, is amended and reenacted as follows:

§ 16.1-278.15. (Effective until July 1, 2003) Custody or visitation, child or spousal support generally.

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A. 3. of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. When the parties are parents of a child whose custody or visitation is contested, the court shall order the parties, at the time of the parties' initial court appearance, to attend educational seminars or other like programs conducted by a qualified person or organization approved by the court, on the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution, and financial responsibilities. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of fifty dollars may be charged. The court may grant an exemption from attendance of such program for good cause shown. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding.

If support is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age of eighteen who is (a) a full-time high school student, (b) not self-supporting, and (c) living in the home of the parent seeking or receiving child support, until the child reaches the age of nineteen or graduates from high school, whichever occurs first. The court may also order the continuation of support for any child over the age of eighteen who is (i) severely and permanently mentally or physically disabled, (ii) unable to live independently and support himself, and (iii) resides in the home of the parent seeking or receiving child support.

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall be construed to alter or amend the process of attachment of any lien on personal property.

D. In cases involving charges for desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

E. In cases involving a spouse who seeks spousal support after having separated from his spouse, the court may enter any appropriate order to protect the welfare of the spouse seeking support.

F. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best interest of the child, including the considerations for determining custody and visitation set forth in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20.

G. In any proceeding before the court for custody or visitation of a child, the court may order a custody or a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the child, if the court finds such evaluation would assist it in its determination. The court may enter such orders as it deems appropriate for the payment of the costs of the evaluation by the parties.

H. When deemed appropriate by the court in any custody or visitation matter, the court may order drug testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. The court may enter such orders as it deems appropriate for the payment of the costs of the testing by the parties.

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