

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 16.1-278.15 and 20-103 of the Code of Virginia, relating to mandatory parenting classes; exception.*

[H 447]

Approved

**Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-278.15 and 20-103 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-278.15. 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. The parties to any petition where a child whose custody, visitation, or support is at issue for an original decision, whether contested or by agreement, shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the court. *The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause.* The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. 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 \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. 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 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order the continuation of support for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, (b) unable to live independently and support himself, and (c) 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

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57 parties.

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

62 § 20-103. Court may make orders pending suit for divorce, custody or visitation, etc.

63 A. In suits for divorce, annulment and separate maintenance, and in proceedings arising under  
 64 subdivision A 3 or subsection L of § 16.1-241, the court having jurisdiction of the matter may, at any  
 65 time pending a suit pursuant to this chapter, in the discretion of such court, make any order that may be  
 66 proper (i) to compel a spouse to pay any sums necessary for the maintenance and support of the  
 67 petitioning spouse, including an order that the other spouse provide health care coverage for the  
 68 petitioning spouse, unless it is shown that such coverage cannot be obtained, (ii) to enable such spouse  
 69 to carry on the suit, (iii) to prevent either spouse from imposing any restraint on the personal liberty of  
 70 the other spouse, (iv) to provide for the custody and maintenance of the minor children of the parties,  
 71 including an order that either party provide health care coverage for the children, (v) to provide support,  
 72 calculated in accordance with § 20-108.2, for any child of the parties to whom a duty of support is  
 73 owed and to continue to support any child over the age of 18 who meets the requirements set forth in  
 74 subsection C of § 20-124.2, (vi) for the exclusive use and possession of the family residence during the  
 75 pendency of the suit, (vii) to preserve the estate of either spouse, so that it be forthcoming to meet any  
 76 decree which may be made in the suit, or (viii) to compel either spouse to give security to abide such  
 77 decree. The parties to any petition where a child whose custody, visitation, or support is ~~at issue for an~~  
 78 ~~original decision, whether~~ contested ~~or by agreement~~, shall show proof that they have attended within  
 79 the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an  
 80 educational seminar or other like program conducted by a qualified person or organization approved by  
 81 the court *except that the court may require the parties to attend such seminar or program in*  
 82 *uncontested cases only if the court finds good cause.* The seminar or other program shall be a minimum  
 83 of four hours in length and shall address the effects of separation or divorce on children, parenting  
 84 responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed  
 85 one educational seminar or other like program, the required completion of additional programs shall be  
 86 at the court's discretion. Parties under this section shall include natural or adoptive parents of the child,  
 87 or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for  
 88 participation in such program shall be based on the party's ability to pay; however, no fee in excess of  
 89 \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute  
 90 resolution to address custody, visitation or support, each party shall have attended the educational  
 91 seminar or other like program. The court may grant an exemption from attendance of such program for  
 92 good cause shown or if there is no program reasonably available. Other than statements or admissions  
 93 by a party admitting criminal activity or child abuse, no statement or admission by a party in such  
 94 seminar or program shall be admissible into evidence in any subsequent proceeding.

95 B. In addition to the terms provided in subsection A, upon a showing by a party of reasonable  
 96 apprehension of physical harm to that party by such party's family or household member as that term is  
 97 defined in § 16.1-228, and consistent with rules of the Supreme Court of Virginia, the court may enter  
 98 an order excluding that party's family or household member from the jointly owned or jointly rented  
 99 family dwelling. In any case where an order is entered under this paragraph, pursuant to an ex parte  
 100 hearing, the order shall not exclude a family or household member from the family dwelling for a  
 101 period in excess of 15 days from the date the order is served, in person, upon the person so excluded.  
 102 The order may provide for an extension of time beyond the 15 days, to become effective automatically.  
 103 The person served may at any time file a written motion in the clerk's office requesting a hearing to  
 104 dissolve or modify the order. Nothing in this section shall be construed to prohibit the court from  
 105 extending an order entered under this subsection for such longer period of time as is deemed  
 106 appropriate, after a hearing on notice to the parties.

107 C. In cases other than those for divorce in which a custody or visitation arrangement for a minor  
 108 child is sought, the court may enter an order providing for custody, visitation or maintenance pending  
 109 the suit as provided in subsection A. The order shall be directed to either parent or any person with a  
 110 legitimate interest who is a party to the suit.

111 D. Orders entered pursuant to this section which provide for custody or visitation arrangements  
 112 pending the suit shall be made in accordance with the standards set out in Chapter 6.1 (§ 20-124.1 et  
 113 seq.) of ~~Title 20~~ *this title*. Orders entered pursuant to subsection B shall be certified by the clerk and  
 114 forwarded as soon as possible to the local police department or sheriff's office which shall, on the date  
 115 of receipt, enter the name of the person subject to the order and other appropriate information required  
 116 by the Department of State Police into the Virginia crime information network system established and  
 117 maintained by the Department of State Police pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. If the

- 118** order is later dissolved or modified, a copy of the dissolution or modification shall also be certified,  
**119** forwarded and entered in the system as described above.  
**120** E. An order entered pursuant to this section shall have no presumptive effect and shall not be  
**121** determinative when adjudicating the underlying cause.