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SENATE BILL NO. 439

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 20-124.1 of the Code of Virginia, relating to sole physical custody.

Patron—Lambert

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 20-124.1 of the Code of Virginia is amended and reenacted as follows:**

§ 20-124.1. Definitions.

As used in this chapter:

"Joint custody" means (i) joint legal custody where both parents retain joint responsibility for the care and control of the child and joint authority to make decisions concerning the child even though the child's primary residence may be with only one parent, (ii) joint physical custody where both parents share physical and custodial care of the child, ~~or~~ (iii) *joint legal custody where one parent retains sole physical custody, or* (iv) any combination of joint legal and joint physical custody which the court deems to be in the best interest of the child.

"Person with a legitimate interest" shall be broadly construed and includes, but is not limited to grandparents, stepparents, former stepparents, blood relatives and family members provided any such party has intervened in the suit or is otherwise properly before the court. The term shall be broadly construed to accommodate the best interest of the child. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated, either voluntarily or involuntarily, including but not limited to grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation.

"Sole custody" means that one person retains responsibility for the care and control of a child and has primary authority to make decisions concerning the child.

"Sole physical custody" means that one person retains responsibility for the daily care and control of the child and provides the child's place of legal residence, and reasonable visitation arrangements are provided for the noncustodial parent, as scheduled by the court or as agreed to by the parents, appropriate to the age, health, and development level of the child in a manner least disruptive to the child's routine, including, but not limited to, his education, child day care, and other activities.

INTRODUCED

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