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HOUSE BILL NO. 1074

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact § 20-124.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 20-124.3:2, relating to expedition of hearings of custody orders when a parent is on active military duty.

 Patron—Suit

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 and that the Code of Virginia is amended by adding a section numbered 20-124.3:2 as follows:

§ 20-124.1. Definitions.

As used in this chapter:

"Active military duty" means (i) for a member of the United States Army, Navy, Air Force, Marine Corps, or a reserve component, any deployment for combat operations or other deployments in which the member's orders do not permit any family member to accompany him or (ii) for a member of the National Guard, any call to active federal service or training duty pursuant to Title 32 of the United States Code, as amended, or any call to state active duty pursuant to Title 44.

"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) 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.

§ 20-124.3:2. *Custody and visitation; expedited hearing based on active military duty.*

Upon the motion of a parent who is on active military duty, the court shall, for good cause shown, hold an expedited hearing on custody and visitation matters whether such motion is made prior to or after the active military duty service. Nothing in this section precludes a parent on active military duty from entering into an agreement with the other parent that will extend past the duration of the active military duty.

INTRODUCED

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