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HOUSE BILL NO. 1252

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 16.1-273 and 16.1-274 of the Code of Virginia, relating to child custody investigations.

Patron—Marsden

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 16.1-273 and 16.1-274 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening ~~and~~; (ii) may, and for the purposes of § 16.1-278.7 shall, include the physical, mental and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law; *and (iii) when involving a child's custody, shall be conducted by the local department of social services.* However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be a felony if committed by an adult, or a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological or economic injury as a result of the violation of law.

§ 16.1-274. Time for filing of reports; copies furnished to attorneys; amended reports; fees.

A. Whenever any court directs an investigation pursuant to subsection A of § 16.1-237, § 16.1-273, or § 9.1-153, or an evaluation pursuant to § 16.1-278.5, the probation officer, court-appointed special advocate, or other agency conducting such investigation shall file such report with the clerk of the court directing the investigation. The clerk shall furnish a copy of such report to all attorneys representing parties in the matter before the court no later than seventy-two hours, and in cases of child custody, 15 days, prior to the time set by the court for hearing the matter. If such probation officer or other agency discovers additional information or a change in circumstance after the filing of the report, an amended report shall be filed forthwith and a copy sent to each person who received a copy of the original report. Whenever such a report is not filed or an amended report is filed, the court shall grant such continuance of the proceedings as justice requires. All attorneys receiving such report or amended report shall return such to the clerk upon the conclusion of the hearing and shall not make copies of such report or amended report or any portion thereof. However, the chief judge of each juvenile and domestic relations district court may provide for an alternative means of copying and distributing reports or amended reports filed pursuant to § 9.1-153.

B. Notwithstanding the provisions of §§ 16.1-69.48:2 and 17.1-275, when the court directs the appropriate local department of social services to conduct supervised visitation or directs the appropriate local department of social services or court services unit to conduct an investigation pursuant to § 16.1-273 or to provide mediation services in matters involving a child's custody, visitation, or support, the court shall assess a fee against the petitioner, the respondent, or both, in accordance with fee schedules established by the appropriate local board of social services when the service is provided by a local department of social services and by the State Board of Juvenile Justice when the service is provided by a court services unit. The fee schedules shall include (i) standards for determining the

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59 paying party's or parties' ability to pay and (ii) a scale of fees based on the paying party's or parties'
60 income and family size and the actual cost of the services provided. The fee charged shall not exceed
61 the actual cost of the service. The fee shall be assessed as a cost of the case and shall be paid as
62 prescribed by the court to the local department of social services, locally operated court services unit or
63 Department of Juvenile Justice, whichever performed the service, unless payment is waived. The method
64 and medium for payment for such services shall be determined by the local department of social
65 services, Department of Juvenile Justice, or the locally operated court services unit that provided the
66 services.

67 C. When a local department of social services, *in the case of a child's custody*, or ~~any~~ *either a local*
68 *department of social services or a court services unit in the case of visitation or support*, is requested by
69 another local department or court services unit in the Commonwealth or by a similar department or
70 entity in another state to conduct an investigation ~~involving a child's custody, visitation or support~~
71 pursuant to § 16.1-273 or, in the case of a request from another state pursuant to a provision
72 corresponding to § 16.1-273, or to provide mediation services, or for a local department of social
73 services to provide supervised visitation, the local department or the court services unit performing the
74 service may require payment of fees prior to conducting the investigation or providing mediation
75 services or supervised visitation.