

091453201

SENATE BILL NO. 1237

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 2, 2009)

(Patron Prior to Substitute—Senator Barker)

A BILL to amend and reenact §§ 20-60.3, 20-103, 20-107.2, 20-108.1, 20-108.2, 20-124.2, 63.2-1900, 63.2-1902, 63.2-1903, 63.2-1916, and 63.2-1924.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1954.1, relating to child support.

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-60.3, 20-103, 20-107.2, 20-108.1, 20-108.2, 20-124.2, 63.2-1900, 63.2-1902, 63.2-1903, 63.2-1916, and 63.2-1924.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1954.1 as follows:

§ 20-60.3. Contents of support orders.

All orders directing the payment of spousal support where there are minor children whom the parties have a mutual duty to support and all orders directing the payment of child support, including those orders confirming separation agreements, entered on or after October 1, 1985, whether they are original orders or modifications of existing orders, shall contain the following:

1. Notice that support payments may be withheld as they become due pursuant to § 20-79.1 or § 20-79.2, from income as defined in § 63.2-1900, without further amendments of this order or having to file an application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to § 20-79.1;

2. Notice that support payments may be withheld pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 without further amendments to the order upon application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2;

3. The names and dates of birth of each child to whom a duty of support is then owed by the person responsible for support;

4. If known, the name, date of birth and social security number of each parent of the child and, if different and if known, the name, date of birth and social security number of the person responsible for support and, unless otherwise ordered, each parent or responsible person's residential and, if different, mailing address, residential and employer telephone number, driver's license number, and the name and address of his or her employer; however, when a protective order has been issued or the court otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, information other than the name of the party at risk shall not be included in the order;

5. On and after July 1, 1994, notice that a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business or occupation issued by the Commonwealth to a person responsible for support as provided in § 63.2-1937 upon a delinquency for a period of 90 days or more or in an amount of \$5,000 or more. The order shall indicate whether either or both parents currently hold such an authorization and, if so, the type of authorization held;

6. The monthly amount of support and the effective date of the order. In proceedings on initial petitions, the effective date shall be the date of filing of the petition; in modification proceedings, the effective date may be the date of notice to the responding party. The first monthly payment shall be due on the first day of the month following the hearing date and on the first day of each month thereafter. In addition, an amount shall be assessed for any full and partial months between the effective date of the order and the date that the first monthly payment is due. The assessment for the initial partial month shall be prorated from the effective date through the end of that month, based on the current monthly obligation;

7. a. An order for health care coverage, including the health insurance policy information, for dependent children pursuant to §§ 20-108.1 and 20-108.2 if available at reasonable cost as defined in § 63.2-1900 and a statement as to whether there is an order for health care coverage for a spouse or former spouse; and

b. A statement as to whether ~~any unreimbursed medical expenses are~~ *cash medical support, as defined in § 63.2-1900, is* to be paid by or reimbursed to a party pursuant to subsections D and G of § 20-108.2, and if such expenses are ordered, then the provisions governing how such payment is to be made;

8. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the arrearage, (ii) the period of time for which such arrearage is calculated, and (iii) a direction that all payments are to be

60 credited to current support obligations first, with any payment in excess of the current obligation applied
61 to arrearages;

62 9. If child support payments are ordered to be paid through the Department of Social Services or
63 directly to the obligee, and unless the court for good cause shown orders otherwise, the parties shall
64 give each other and the court and, when payments are to be made through the Department, the
65 Department of Social Services at least 30 days' written notice, in advance, of any change of address and
66 any change of telephone number within 30 days after the change;

67 10. If child support payments are ordered to be paid through the Department of Social Services, a
68 provision requiring an obligor to keep the Department of Social Services informed of the name, address
69 and telephone number of his current employer, or if payments are ordered to be paid directly to the
70 obligee, a provision requiring an obligor to keep the court informed of the name, address and telephone
71 number of his current employer;

72 11. The separate amounts due to each person under the order, unless the court specifically orders a
73 unitary award of child and spousal support due or the order affirms a separation agreement containing
74 provision for such unitary award;

75 12. Notice that in determination of a support obligation, the support obligation as it becomes due and
76 unpaid creates a judgment by operation of law;

77 13. Notice that on and after July 1, 1994, the Department of Social Services may, pursuant to
78 Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and in accordance with §§ 20-108.2 and 63.2-1921,
79 initiate a review of the amount of support ordered by any court; and

80 14. A statement that if any arrearages for child support, including interest or fees, exist at the time
81 the youngest child included in the order emancipates, payments shall continue in the total amount due
82 (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages
83 are paid.

84 The provisions of this section shall not apply to divorce decrees where there are no minor children
85 whom the parties have a mutual duty to support.

86 § 20-103. Court may make orders pending suit for divorce, custody or visitation, etc.

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

119 B. In addition to the terms provided in subsection A, upon a showing by a party of reasonable
120 apprehension of physical harm to that party by such party's family or household member as that term is
121 defined in § 16.1-228, and consistent with rules of the Supreme Court of Virginia, the court may enter

an order excluding that party's family or household member from the jointly owned or jointly rented family dwelling. In any case where an order is entered under this paragraph, pursuant to an ex parte hearing, the order shall not exclude a family or household member from the family dwelling for a period in excess of 15 days from the date the order is served, in person, upon the person so excluded. The order may provide for an extension of time beyond the 15 days, to become effective automatically. The person served may at any time file a written motion in the clerk's office requesting a hearing to dissolve or modify the order. Nothing in this section shall be construed to prohibit the court from extending an order entered under this subsection for such longer period of time as is deemed appropriate, after a hearing on notice to the parties. If the party subject to the order fails to appear at this hearing, the court may extend the order for a period not to exceed six months.

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

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

E. An order entered pursuant to this section shall have no presumptive effect and shall not be determinative when adjudicating the underlying cause.

§ 20-107.2. Court may decree as to custody and support of minor children.

Upon entry of a decree providing (i) for the dissolution of a marriage, (ii) for a divorce, whether from the bond of matrimony or from bed and board, (iii) that neither party is entitled to a divorce, or (iv) for separate maintenance, the court may make such further decree as it shall deem expedient concerning the custody or visitation and support of the minor children of the parties as provided in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20, including an order that either party *or both parties* provide health care coverage *or cash medical support, or both*.

§ 20-108.1. Determination of child or spousal support.

A. In any proceeding on the issue of determining spousal support, the court shall consider all evidence presented relevant to any issues joined in that proceeding. The court's decision shall be rendered based upon the evidence relevant to each individual case.

B. In any proceeding on the issue of determining child support under this title or Title 16.1 or Title 63.2, the court shall consider all evidence presented relevant to any issues joined in that proceeding. The court's decision in any such proceeding shall be rendered upon the evidence relevant to each individual case. However, there shall be a rebuttable presumption in any judicial or administrative proceeding for child support, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the guidelines set out in § 20-108.2 is the correct amount of child support to be awarded. Liability for support shall be determined retroactively for the period measured from the date that the proceeding was commenced by the filing of an action with any court provided the complainant exercised due diligence in the service of the respondent or, if earlier, the date an order of the Department of Social Services entered pursuant to Title 63.2 and directing payment of support was delivered to the sheriff or process server for service on the obligor.

In order to rebut the presumption, the court shall make written findings in the order, which findings may be incorporated by reference, that the application of such guidelines would be unjust or inappropriate in a particular case. The finding that rebuts the guidelines shall state the amount of support that would have been required under the guidelines, shall give a justification of why the order varies from the guidelines, and shall be determined by relevant evidence pertaining to the following factors affecting the obligation, the ability of each party to provide child support, and the best interests of the child:

1. Actual monetary support for other family members or former family members;
2. Arrangements regarding custody of the children, including the cost of visitation travel;
3. Imputed income to a party who is voluntarily unemployed or voluntarily under-employed; provided that income may not be imputed to the custodial parent when a child is not in school, child care services are not available and the cost of such child care services are not included in the computation and provided further, that any consideration of imputed income based on a change in a party's employment shall be evaluated with consideration of the good faith and reasonableness of

183 employment decisions made by the party;
184 4. Debts of either party arising during the marriage for the benefit of the child;
185 5. Direct payments ordered by the court for maintaining life insurance coverage pursuant to
186 subsection D, education expenses, or other court-ordered direct payments for the benefit of the child;
187 6. Extraordinary capital gains such as capital gains resulting from the sale of the marital abode;
188 7. Any special needs of a child resulting from any physical, emotional, or medical condition;
189 8. Independent financial resources of the child or children;
190 9. Standard of living for the child or children established during the marriage;
191 10. Earning capacity, obligations, financial resources, and special needs of each parent;
192 11. Provisions made with regard to the marital property under § 20-107.3, where said property earns
193 income or has an income-earning potential;
194 12. Tax consequences to the parties including claims for exemptions, child tax credit, and child care
195 credit for dependent children;
196 13. A written agreement, stipulation, consent order, or decree between the parties which includes the
197 amount of child support; and
198 14. Such other factors as are necessary to consider the equities for the parents and children.
199 C. In any proceeding under this title or Title 16.1 or Title 63.2 on the issue of determining child
200 support, the court shall have the authority to order a *either party or both parties* to provide health care
201 coverage *or cash medical support*, as defined in § 63.2-1900, *or both*, for dependent children if
202 reasonable under all the circumstances and health care coverage for a spouse or former spouse.
203 D. In any proceeding under this title, Title 16.1 or Title 63.2 on the issue of determining child
204 support, the court shall have the authority to order a party to (i) maintain any existing life insurance
205 policy on the life of either party provided the party so ordered has the right to designate a beneficiary
206 and (ii) designate a child or children of the parties as the beneficiary of all or a portion of such life
207 insurance for so long as the party so ordered has a statutory obligation to pay child support for the child
208 or children.
209 E. Except when the parties have otherwise agreed, in any proceeding under this title, Title 16.1 or
210 Title 63.2 on the issue of determining child support, the court shall have the authority to and may, in its
211 discretion, order one party to execute all appropriate tax forms or waivers to grant to the other party the
212 right to take the income tax dependency exemption for any tax year or future years, for any child or
213 children of the parties for federal and state income tax purposes.
214 F. Notwithstanding any other provision of law, any amendments to this section shall not be
215 retroactive to a date before the effective date of the amendment, and shall not be the basis for a material
216 change in circumstances upon which a modification of child support may be based.
217 G. Child support payments, whether current or arrears, received by a parent for the benefit of and
218 owed to a child in the parent's custody, whether the payments were ordered under this title, Title 16.1,
219 or Title 63.2, shall not be subject to garnishment. A depository wherein child support payments have
220 been deposited on behalf of and traceable to an individual shall not be required to determine the portion
221 of deposits which are subject to garnishment.
222 § 20-108.2. Guideline for determination of child support; quadrennial review by Child Support
223 Guidelines Review Panel; executive summary.
224 A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child
225 support under this title or Title 16.1 or 63.2, including cases involving split custody or shared custody,
226 that the amount of the award which would result from the application of the guidelines set forth in this
227 section is the correct amount of child support to be awarded. In order to rebut the presumption, the
228 court shall make written findings in the order as set out in § 20-108.1, which findings may be
229 incorporated by reference, that the application of the guidelines would be unjust or inappropriate in a
230 particular case as determined by relevant evidence pertaining to the factors set out in § 20-108.1. The
231 Department of Social Services shall set child support at the amount resulting from computations using
232 the guidelines set out in this section pursuant to the authority granted to it in Chapter 19 (§ 63.2-1900 et
233 seq.) of Title 63.2 and subject to the provisions of § 63.2-1918.
234 B. For purposes of application of the guideline, a basic child support obligation shall be computed
235 using the schedule set out below. For combined monthly gross income amounts falling between amounts
236 shown in the schedule, basic child support obligation amounts shall be extrapolated. However, unless
237 one of the following exemptions applies where the sole custody child support obligation as computed
238 pursuant to subdivision G 1 is less than \$65 per month, there shall be a presumptive minimum child
239 support obligation of \$65 per month payable by the payor parent. Exemptions from this presumptive
240 minimum monthly child support obligation shall include: parents unable to pay child support because
241 they lack sufficient assets from which to pay child support and who, in addition, are institutionalized in
242 a psychiatric facility; are imprisoned for life with no chance of parole; are medically verified to be
243 totally and permanently disabled with no evidence of potential for paying child support, including
244 recipients of Supplemental Security Income (SSI); or are otherwise involuntarily unable to produce

income. "Number of children" means the number of children for whom the parents share joint legal responsibility and for whom support is being sought.

SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

COMBINED

MONTHLY

GROSS	ONE	TWO	THREE	FOUR	FIVE	SIX
INCOME	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
0-599	65	65	65	65	65	65
600	110	111	113	114	115	116
650	138	140	142	143	145	146
700	153	169	170	172	174	176
750	160	197	199	202	204	206
800	168	226	228	231	233	236
850	175	254	257	260	263	266
900	182	281	286	289	292	295
950	189	292	315	318	322	325
1000	196	304	344	348	351	355
1050	203	315	373	377	381	385
1100	210	326	402	406	410	415
1150	217	337	422	435	440	445
1200	225	348	436	465	470	475
1250	232	360	451	497	502	507
1300	241	373	467	526	536	542
1350	249	386	483	545	570	576
1400	257	398	499	563	605	611
1450	265	411	515	581	633	645
1500	274	426	533	602	656	680
1550	282	436	547	617	672	714
1600	289	447	560	632	689	737
1650	295	458	573	647	705	754
1700	302	468	587	662	721	772
1750	309	479	600	676	738	789
1800	315	488	612	690	752	805
1850	321	497	623	702	766	819
1900	326	506	634	714	779	834
1950	332	514	645	727	793	848
2000	338	523	655	739	806	862
2050	343	532	666	751	819	877
2100	349	540	677	763	833	891
2150	355	549	688	776	846	905
2200	360	558	699	788	860	920
2250	366	567	710	800	873	934
2300	371	575	721	812	886	948
2350	377	584	732	825	900	963
2400	383	593	743	837	913	977
2450	388	601	754	849	927	991
2500	394	610	765	862	940	1006
2550	399	619	776	874	954	1020
2600	405	627	787	886	967	1034
2650	410	635	797	897	979	1048
2700	415	643	806	908	991	1060
2750	420	651	816	919	1003	1073
2800	425	658	826	930	1015	1085
2850	430	667	836	941	1027	1098
2900	435	675	846	953	1039	1112
2950	440	683	856	964	1052	1125

301	3000	445	691	866	975	1064	1138
302	3050	450	699	876	987	1076	1152
303	3100	456	707	886	998	1089	1165
304	3150	461	715	896	1010	1101	1178
305	3200	466	723	906	1021	1114	1191
306	3250	471	732	917	1032	1126	1205
307	3300	476	740	927	1044	1139	1218
308	3350	481	748	937	1055	1151	1231
309	3400	486	756	947	1067	1164	1245
310	3450	492	764	957	1078	1176	1258
311	3500	497	772	967	1089	1189	1271
312	3550	502	780	977	1101	1201	1285
313	3600	507	788	987	1112	1213	1298
314	3650	512	797	997	1124	1226	1311
315	3700	518	806	1009	1137	1240	1326
316	3750	524	815	1020	1150	1254	1342
317	3800	530	824	1032	1163	1268	1357
318	3850	536	834	1043	1176	1283	1372
319	3900	542	843	1055	1189	1297	1387
320	3950	547	852	1066	1202	1311	1402
321	4000	553	861	1078	1214	1325	1417
322	4050	559	871	1089	1227	1339	1432
323	4100	565	880	1101	1240	1353	1448
324	4150	571	889	1112	1253	1367	1463
325	4200	577	898	1124	1266	1382	1478
326	4250	583	907	1135	1279	1396	1493
327	4300	589	917	1147	1292	1410	1508
328	4350	594	926	1158	1305	1424	1523
329	4400	600	935	1170	1318	1438	1538
330	4450	606	944	1181	1331	1452	1553
331	4500	612	954	1193	1344	1467	1569
332	4550	618	963	1204	1357	1481	1584
333	4600	624	972	1216	1370	1495	1599
334	4650	630	981	1227	1383	1509	1614
335	4700	635	989	1237	1395	1522	1627
336	4750	641	997	1247	1406	1534	1641
337	4800	646	1005	1257	1417	1546	1654
338	4850	651	1013	1267	1428	1558	1667
339	4900	656	1021	1277	1439	1570	1679
340	4950	661	1028	1286	1450	1582	1692
341	5000	666	1036	1295	1460	1593	1704
342	5050	671	1043	1305	1471	1605	1716
343	5100	675	1051	1314	1481	1616	1728
344	5150	680	1058	1323	1492	1628	1741
345	5200	685	1066	1333	1502	1640	1753
346	5250	690	1073	1342	1513	1651	1765
347	5300	695	1081	1351	1524	1663	1778
348	5350	700	1088	1361	1534	1674	1790
349	5400	705	1096	1370	1545	1686	1802
350	5450	710	1103	1379	1555	1697	1815
351	5500	714	1111	1389	1566	1709	1827
352	5550	719	1118	1398	1576	1720	1839
353	5600	724	1126	1407	1587	1732	1851
354	5650	729	1133	1417	1598	1743	1864
355	5700	734	1141	1426	1608	1755	1876
356	5750	739	1148	1435	1619	1766	1888
357	5800	744	1156	1445	1629	1778	1901

358	5850	749	1163	1454	1640	1790	1913
359	5900	753	1171	1463	1650	1801	1925
360	5950	758	1178	1473	1661	1813	1937
361	6000	763	1186	1482	1672	1824	1950
362	6050	768	1193	1491	1682	1836	1962
363	6100	773	1201	1501	1693	1847	1974
364	6150	778	1208	1510	1703	1859	1987
365	6200	783	1216	1519	1714	1870	1999
366	6250	788	1223	1529	1724	1882	2011
367	6300	792	1231	1538	1735	1893	2023
368	6350	797	1238	1547	1745	1905	2036
369	6400	802	1246	1557	1756	1916	2048
370	6450	807	1253	1566	1767	1928	2060
371	6500	812	1261	1575	1777	1940	2073
372	6550	816	1267	1583	1786	1949	2083
373	6600	820	1272	1590	1794	1957	2092
374	6650	823	1277	1597	1801	1965	2100
375	6700	827	1283	1604	1809	1974	2109
376	6750	830	1288	1610	1817	1982	2118
377	6800	834	1293	1617	1824	1990	2127
378	6850	837	1299	1624	1832	1999	2136
379	6900	841	1304	1631	1839	2007	2145
380	6950	845	1309	1637	1847	2016	2154
381	7000	848	1315	1644	1855	2024	2163
382	7050	852	1320	1651	1862	2032	2172
383	7100	855	1325	1658	1870	2041	2181
384	7150	859	1331	1665	1878	2049	2190
385	7200	862	1336	1671	1885	2057	2199
386	7250	866	1341	1678	1893	2066	2207
387	7300	870	1347	1685	1900	2074	2216
388	7350	873	1352	1692	1908	2082	2225
389	7400	877	1358	1698	1916	2091	2234
390	7450	880	1363	1705	1923	2099	2243
391	7500	884	1368	1712	1931	2108	2252
392	7550	887	1374	1719	1938	2116	2261
393	7600	891	1379	1725	1946	2124	2270
394	7650	895	1384	1732	1954	2133	2279
395	7700	898	1390	1739	1961	2141	2288
396	7750	902	1395	1746	1969	2149	2297
397	7800	905	1400	1753	1977	2158	2305
398	7850	908	1405	1758	1983	2164	2313
399	7900	910	1409	1764	1989	2171	2320
400	7950	913	1414	1770	1995	2178	2328
401	8000	916	1418	1776	2001	2185	2335
402	8050	918	1423	1781	2007	2192	2343
403	8100	921	1428	1787	2014	2198	2350
404	8150	924	1432	1793	2020	2205	2357
405	8200	927	1437	1799	2026	2212	2365
406	8250	929	1441	1804	2032	2219	2372
407	8300	932	1446	1810	2038	2226	2380
408	8350	935	1450	1816	2045	2232	2387
409	8400	937	1455	1822	2051	2239	2395
410	8450	940	1459	1827	2057	2246	2402
411	8500	943	1464	1833	2063	2253	2410
412	8550	945	1468	1839	2069	2260	2417
413	8600	948	1473	1845	2076	2266	2425

414	8650	951	1478	1850	2082	2273	2432
415	8700	954	1482	1856	2088	2280	2440
416	8750	956	1487	1862	2094	2287	2447
417	8800	959	1491	1868	2100	2294	2455
418	8850	962	1496	1873	2107	2300	2462
419	8900	964	1500	1879	2113	2307	2470
420	8950	967	1505	1885	2119	2314	2477
421	9000	970	1509	1891	2125	2321	2484
422	9050	973	1514	1896	2131	2328	2492
423	9100	975	1517	1901	2137	2334	2498
424	9150	977	1521	1905	2141	2339	2503
425	9200	979	1524	1909	2146	2344	2509
426	9250	982	1527	1914	2151	2349	2514
427	9300	984	1531	1918	2156	2354	2520
428	9350	986	1534	1922	2160	2359	2525
429	9400	988	1537	1926	2165	2365	2531
430	9450	990	1541	1930	2170	2370	2536
431	9500	993	1544	1935	2175	2375	2541
432	9550	995	1547	1939	2179	2380	2547
433	9600	997	1551	1943	2184	2385	2552
434	9650	999	1554	1947	2189	2390	2558
435	9700	1001	1557	1951	2194	2396	2563
436	9750	1003	1561	1956	2198	2401	2569
437	9800	1006	1564	1960	2203	2406	2574
438	9850	1008	1567	1964	2208	2411	2580
439	9900	1010	1571	1968	2213	2416	2585
440	9950	1012	1574	1972	2218	2421	2590
441	10000	1014	1577	1977	2222	2427	2596

442 For gross monthly income between \$10,000 and \$20,000, add the amount of child support for
 443 \$10,000 to the following percentages of gross income above \$10,000:

444	ONE	TWO	THREE	FOUR	FIVE	SIX
445	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
446	3.1%	5.1%	6.8%	7.8%	8.8%	9.5%

447 For gross monthly income between \$20,000 and \$50,000, add the amount of child support for
 448 \$20,000 to the following percentages of gross income above \$20,000:

449	ONE	TWO	THREE	FOUR	FIVE	SIX
450	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
451	2%	3.5%	5%	6%	6.9%	7.8%

452 For gross monthly income over \$50,000, add the amount of child support for \$50,000 to the
 453 following percentages of gross income above \$50,000:

454	ONE	TWO	THREE	FOUR	FIVE	SIX
455	CHILD	CHILDREN	CHILDREN	CHILDREN	CHILDREN	CHILDREN
456	1%	2%	3%	4%	5%	6%

457 C. For purposes of this section, "gross income" means all income from all sources, and shall include,
 458 but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance
 459 pay, pensions, interest, trust income, annuities, capital gains, social security benefits except as listed
 460 below, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits,
 461 veterans' benefits, spousal support, rental income, gifts, prizes or awards.

462 If a parent's gross income includes disability insurance benefits, it shall also include any amounts
 463 paid to or for the child who is the subject of the order and derived by the child from the parent's
 464 entitlement to disability insurance benefits. To the extent that such derivative benefits are included in a
 465 parent's gross income, that parent shall be entitled to a credit against his or her ongoing basic child
 466 support obligation for any such amounts, and, if the amount of the credit exceeds the parent's basic child
 467 support obligations, the credit may be used to reduce arrearages.

468 Gross income shall be subject to deduction of reasonable business expenses for persons with income
 469 from self-employment, a partnership, or a closely held business. "Gross income" shall not include:

- 470 1. Benefits from public assistance and social services programs as defined in § 63.2-100;
- 471 2. Federal supplemental security income benefits;

3. Child support received; or

4. Income received by the payor from secondary employment income not previously included in "gross income," where the payor obtained the income to discharge a child support arrearage established by a court or administrative order and the payor is paying the arrearage pursuant to the order. "Secondary employment income" includes but is not limited to income from an additional job, from self-employment, or from overtime employment. The cessation of such secondary income upon the payment of the arrearage shall not be the basis for a material change in circumstances upon which a modification of child support may be based.

For purposes of this subsection: (i) spousal support received shall be included in gross income and spousal support paid shall be deducted from gross income when paid pursuant to an order or written agreement and (ii) one-half of any self-employment tax paid shall be deducted from gross income.

Where there is an existing court or administrative order or written agreement relating to the child or children of a party to the proceeding, who are not the child or children who are the subject of the present proceeding, then there is a presumption that there shall be deducted from the gross income of the party subject to such order or written agreement, the amount that the party is actually paying for the support of a child or children pursuant to such order or agreement.

Where a party to the proceeding has a natural or adopted child or children in the party's household or primary physical custody, and the child or children are not the subject of the present proceeding, there is a presumption that there shall be deducted from the gross income of that party the amount as shown on the Schedule of Monthly Basic Child Support Obligations contained in subsection B that represents that party's support obligation based solely on that party's income as being the total income available for the natural or adopted child or children in the party's household or primary physical custody, who are not the subject of the present proceeding. Provided, however, that the existence of a party's financial responsibility for such a child or children shall not of itself constitute a material change in circumstances for modifying a previous order of child support in any modification proceeding. Any adjustment to gross income under this subsection shall not create or reduce a support obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child, as determined by the court.

In cases in which retroactive liability for support is being determined, the court or administrative agency may use the gross monthly income of the parties averaged over the period of retroactivity.

D. Except for good cause shown or the agreement of the parties, in addition to any other child support obligations established pursuant to this section, any child support order shall provide that the parents pay in proportion to their gross incomes, as used for calculating the monthly support obligation, any reasonable and necessary unreimbursed medical or dental expenses that are in excess of \$250 for any calendar year for each child who is the subject of the obligation. The method of payment of those expenses shall be contained in the support order. Each parent shall pay his respective share of expenses as those expenses are incurred. Any amount paid under this subsection shall not be adjusted by, nor added to, the child support calculated in accordance with subsection G. For the purposes of this section, medical or dental expenses shall include but not be limited to eyeglasses, prescription medication, prosthetics, orthodontics, and mental health or developmental disabilities services, including but not limited to services provided by a social worker, psychologist, psychiatrist, counselor, or therapist.

E. Any costs for healthcare coverage as defined in § 63.2-1900 and dental care coverage, when actually being paid by a parent *or that parent's spouse*, to the extent such costs are directly allocable to the child or children, and which are the extra costs of covering the child or children beyond whatever coverage the parent *or that parent's spouse* providing the coverage would otherwise have, shall be added to the basic child support obligation. *Where the court orders that a custodial parent enroll a child in health care coverage sponsored by the Department of Social Services, the Department shall deduct the cost of the coverage prior to disbursement of the child support payment in accordance with § 63.2-1954.1.*

F. Any child-care costs incurred on behalf of the child or children due to employment of the custodial parent shall be added to the basic child support obligation. Child-care costs shall not exceed the amount required to provide quality care from a licensed source. When requested by the noncustodial parent, the court may require the custodial parent to present documentation to verify the costs incurred for child care under this subsection. Where appropriate, the court shall consider the willingness and availability of the noncustodial parent to provide child care personally in determining whether child-care costs are necessary or excessive. Upon the request of either party, and upon a showing of the tax savings a party derives from child-care cost deductions or credits, the court shall factor actual tax consequences into its calculation of the child-care costs to be added to the basic child support obligation.

G. 1. Sole custody support. The sole custody total monthly child support obligation shall be established by adding (i) the monthly basic child support obligation, as determined from the schedule contained in subsection B, (ii) costs for health care coverage to the extent allowable by subsection E,

533 ~~and~~ (iii) cash medical support in cases where the child is a recipient of Medicaid or the Family Access
534 to Medical Insurance Security Plan as set forth in clause (ii) of the definition of cash medical support in
535 § 63.2-1900, and (iv) work-related child-care costs and taking into consideration all the factors set forth
536 in subsection B of § 20-108.1. The total monthly child support obligation shall be divided between the
537 parents in the same proportion as their monthly gross incomes bear to their monthly combined gross
538 income. The monthly obligation of each parent shall be computed by multiplying each parent's
539 percentage of the parents' monthly combined gross income by the total monthly child support obligation.

540 However, the monthly obligation of the noncustodial parent shall be reduced by the cost for health
541 care coverage to the extent allowable by subsection E when paid directly by the noncustodial parent *or*
542 *that parent's spouse*. Unreimbursed medical and dental expenses shall be calculated and allocated in
543 accordance with subsection D.

544 2. Split custody support. In cases involving split custody, the amount of child support to be paid
545 shall be the difference between the amounts owed by each parent as a noncustodial parent, computed in
546 accordance with subdivision 1, with the noncustodial parent owing the larger amount paying the
547 difference to the other parent. Unreimbursed medical and dental expenses shall be calculated and
548 allocated in accordance with subsection D.

549 For the purpose of this section and § 20-108.1, split custody shall be limited to those situations
550 where each parent has physical custody of a child or children born of the parents, born of either parent
551 and adopted by the other parent or adopted by both parents. For the purposes of calculating a child
552 support obligation where split custody exists, a separate family unit exists for each parent, and child
553 support for that family unit shall be calculated upon the number of children in that family unit who are
554 born of the parents, born of either parent and adopted by the other parent or adopted by both parents.
555 Where split custody exists, a parent is a custodial parent to the children in that parent's family unit and
556 is a noncustodial parent to the children in the other parent's family unit.

557 3. Shared custody support.

558 (a) Where a party has custody or visitation of a child or children for more than 90 days of the year,
559 as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the
560 ratio in which the parents share the custody and visitation of any child or children shall be calculated in
561 accordance with this subdivision. The presumptive support to be paid shall be the shared custody
562 support amount, unless a party affirmatively shows that the sole custody support amount calculated as
563 provided in subdivision G 1 is less than the shared custody support amount. If so, the lesser amount
564 shall be the support to be paid. For the purposes of this subsection, the following shall apply:

565 (i) Income share. "Income share" means a parent's percentage of the combined monthly gross income
566 of both parents. The income share of a parent is that parent's gross income divided by the combined
567 gross incomes of the parties.

568 (ii) Custody share. "Custody share" means the number of days that a parent has physical custody,
569 whether by sole custody, joint legal or joint residential custody, or visitation, of a shared child per year
570 divided by the number of days in the year. The actual or anticipated "custody share" of the parent who
571 has or will have fewer days of physical custody shall be calculated for a one-year period. The "custody
572 share" of the other parent shall be presumed to be the number of days in the year less the number of
573 days calculated as the first parent's "custody share." For purposes of this calculation, the year may begin
574 on such date as is determined in the discretion of the court, and the day may begin at such time as is
575 determined in the discretion of the court. For purposes of this calculation, a day shall be as defined in
576 subdivision G 3 (c).

577 (iii) Shared support need. "Shared support need" means the presumptive guideline amount of needed
578 support for the shared child or children calculated pursuant to subsection B of this section, for the
579 combined gross income of the parties and the number of shared children, multiplied by 1.4.

580 (iv) Sole custody support. "Sole custody support" means the support amount determined in
581 accordance with subdivision G 1.

582 (b) Support to be paid. The shared support need of the shared child or children shall be calculated
583 pursuant to subdivision G 3 (a) (iii). This amount shall then be multiplied by the other parent's custody
584 share. To that sum for each parent shall be added the other parent's *or that parent's spouse's* cost of
585 health care coverage to the extent allowable by subsection E, plus the other parent's work-related
586 child-care costs to the extent allowable by subsection F. This total for each parent shall be multiplied by
587 that parent's income share. The support amounts thereby calculated that each parent owes the other shall
588 be subtracted one from the other and the difference shall be the shared custody support one parent owes
589 to the other, with the payor parent being the one whose shared support is the larger. Unreimbursed
590 medical and dental expenses shall be calculated and allocated in accordance with subsection D.

591 (c) Definition of a day. For the purposes of this section, "day" means a period of 24 hours; however,
592 where the parent who has the fewer number of overnight periods during the year has an overnight
593 period with a child, but has physical custody of the shared child for less than 24 hours during such
594 overnight period, there is a presumption that each parent shall be allocated one-half of a day of custody

for that period.

(d) Minimum standards. Any calculation under this subdivision shall not create or reduce a support obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child. If the gross income of either party is equal to or less than 150 percent of the federal poverty level promulgated by the U.S. Department of Health and Human Services from time to time, then the shared custody support calculated pursuant to this subsection shall not be the presumptively correct support and the court may consider whether the sole custody support or the shared custody support is more just and appropriate.

(e) Support modification. When there has been an award of child support based on the shared custody formula and one parent consistently fails to exercise custody or visitation in accordance with the parent's custody share upon which the award was based, there shall be a rebuttable presumption that the support award should be modified.

(f) In the event that the shared custody support calculation indicates that the net support is to be paid to the parent who would not be the parent receiving support pursuant to the sole custody calculation, then the shared support shall be deemed to be the lesser support.

H. The Secretary of Health and Human Resources shall ensure that the guideline set out in this section is reviewed by October 31, 2001, and every four years thereafter, by the Child Support Guidelines Review Panel, consisting of 15 members comprised of four legislative members and 11 nonlegislative citizen members. Members shall be appointed as follows: three members of the House Committee for Courts of Justice, upon the recommendation of the chairman of such committee, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate Committee for Courts of Justice, upon the recommendation of the chairman of such committee, to be appointed by the Senate Committee on Rules; and one representative of a juvenile and domestic relations district court, one representative of a circuit court, one representative of the Department of Social Services' Division of Child Support Enforcement, three members of the Virginia State Bar, two custodial parents, two noncustodial parents, and one child advocate, upon the recommendation of the Secretary of Health and Human Resources, to be appointed by the Governor. The Panel shall determine the adequacy of the guideline for the determination of appropriate awards for the support of children by considering current research and data on the cost of and expenditures necessary for rearing children, and any other resources it deems relevant to such review. The Panel shall report its findings to the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports before the General Assembly next convenes following such review.

Legislative members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall serve at the pleasure of the Governor. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

Legislative members shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Social Services.

The Department of Social Services shall provide staff support to the Panel. All agencies of the Commonwealth shall provide assistance to the Panel, upon request.

The chairman of the Panel shall submit to the Governor and the General Assembly a quadrennial executive summary of the interim activity and work of the Panel no later than the first day of 2006 regular session of the General Assembly and every four years thereafter. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 20-124.2. Court-ordered custody and visitation arrangements.

A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and visitation arrangements, including support and maintenance for the children, prior to other considerations arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include development of a proposal addressing the child's residential schedule and care arrangements, and how disputes between the parents will be handled in the future.

B. In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when

appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody.

C. The court may order that support be paid for any child of the parties. The court shall also order that support will continue to be paid for any 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 party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever first occurs. The court may also order the continuation of support for any child over the age of 18 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. In addition, the court may confirm a stipulation or agreement of the parties which extends a support obligation beyond when it would otherwise terminate as provided by law. The court shall have no authority to decree support of children payable by the estate of a deceased party. The court may make such further decree as it shall deem expedient concerning support of the minor children, including an order that ~~any~~ *either party or both parties* provide health care coverage or cash medical support, or both.

D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court may order an independent mental health or psychological evaluation to assist the court in its determination of the best interests of the child. The court may enter such order as it deems appropriate for the payment of the costs of the evaluation by the parties.

E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent or other person having legal custody of a child may petition the court to enjoin and the court may enter an order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for any period of time up to 10 years if doing so is in the best interests of the child and such parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state, the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

§ 63.2-1900. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administrative order" or "administrative support order" means a noncourt-ordered legally enforceable support obligation having the force and effect of a support order established by the court.

"Assignment of rights" means the legal procedure whereby an individual assigns support rights to the Commonwealth on behalf of a dependent child or spouse and dependent child.

"Authorization to seek or enforce a support obligation" means a signed authorization to the Commonwealth to seek or enforce support on behalf of a dependent child or a spouse and dependent child or on behalf of a person deemed to have submitted an application by operation of law.

"Cash medical support" means (i) the proportional amount the court or the Department shall order both parents to pay toward reasonable and necessary unreimbursed medical or dental expenses pursuant to subsection D of § 20-108.2 and (ii) where the child is a recipient of Medicaid or the Family Access to Medical Insurance Security Plan and other health care coverage is not available or accessible to either parent at a reasonable cost, the court or the Department shall order the noncustodial parent to pay to the Department 2.5 percent of his gross income, to be prorated as agreed to by the Department and the Department of Medical Assistance Services.

"Court order" means any judgment or order of any court having jurisdiction to order payment of support or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys.

"Custodial parent" means the natural or adoptive parent with whom the child resides; a stepparent or other person who has physical custody of the child and with whom the child resides; or a local board that has legal custody of a child in foster care.

"Debt" means the total unpaid support obligation established by court order, administrative process or by the payment of public assistance and owed by a noncustodial parent to either the Commonwealth or to his dependent(s).

"Department-sponsored health care coverage" means any health care coverage that the Department may make available through a private contractor for children receiving child support services from the Department.

"Dependent child" means any person who meets the eligibility criteria set forth in § 63.2-602, whose support rights have been assigned or whose authorization to seek or enforce a support obligation has been given to the Commonwealth and whose support is required by Titles 16.1 and 20.

"Employee" means any individual receiving income.

"Employer" means the source of any income.

"Financial institution" means a depository institution, an institution-affiliated party, any federal credit union or state credit union including an institution-affiliated party of such a credit union, and any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in this Commonwealth.

"Financial records" includes, but is not limited to, records held by employers showing income, profit sharing contributions and benefits paid or payable and records held by financial institutions, broker-dealers and other institutions and entities showing bank accounts, IRA and separate contributions, gross winnings, dividends, interest, distributive share, stocks, bonds, agricultural subsidies, royalties, prizes and awards held for or due and payable to a responsible person.

"Foreign support order" means any order issued outside of the Commonwealth by a court or tribunal as defined in § 20-88.32.

"Health care coverage" means any plan providing hospital, medical or surgical care coverage for dependent children provided such coverage is available and can be obtained by a parent, *parents*, or a *parent's spouse* at a reasonable cost.

"Income" means any periodic form of payment due an individual from any source and shall include, but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance pay, payments pursuant to a pension or retirement program, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, veterans' benefits, spousal support, net rental income, gifts, prizes or awards.

"Mistake of fact" means an error in the identity of the payor or the amount of current support or arrearage.

"Net income" means that income remaining after the following deductions have been taken from gross income: federal income tax, state income tax, federal income compensation act benefits, any union dues where collection thereof is required under federal law, and any other amounts required by law.

"Noncustodial parent" means a responsible person who is or may be obligated under Virginia law for support of a dependent child or child's caretaker.

"Obligee" means (i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered, (ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee, or (iii) an individual seeking a judgment determining parentage of the individual's child.

"Obligor" means an individual, or the estate of a decedent, who (i) owes or is alleged to owe a duty of support, (ii) is alleged but has not been adjudicated to be a parent of a child, or (iii) is liable under a support order.

"Payee" means any person to whom spousal or child support is to be paid.

"Reasonable cost" pertaining to health care coverage *for dependent children* means available, *in an amount not to exceed five percent of the parents' combined gross income, and accessible* through employers, unions or other groups, *or Department-sponsored health care coverage*, without regard to service delivery mechanism; ~~or an insurance premium for dependent children that does not exceed a percentage of a parent's gross income as established by federal regulation unless the court deems otherwise in the best interests of the child or by agreement of the parties.~~

§ 63.2-1902. Central unit for information and administration; request and receipt of information from other entities and agencies; disclosure of such information.

The Department is authorized and directed to establish a central unit within the Department to administer the Title IV D State Plan according to 45 C.F.R. 302.12. The central unit shall have the statewide jurisdiction and authority to:

1. Establish a registry for the receipt of information;
2. Answer interstate inquiries concerning noncustodial parents;
3. Coordinate and supervise departmental activities in relation to noncustodial parents to ensure effective cooperation with law-enforcement agencies; and
4. Contract and enter into cooperative agreements with individuals and agencies including law-enforcement agencies, in order that they may assist the Department in its responsibilities.

779 The central unit within the Department shall supervise offices whose primary functions are:

780 a. Location of absent noncustodial parents;

781 b. Assessment of the ability of ~~noncustodial~~ parents to pay child or child and spousal support and to
782 obtain health care coverage *or cash medical support, or both*, for dependent children;

783 c. Establishment, modification and enforcement of support obligations including health care coverage
784 for dependent children, through administrative action;

785 d. Preparation of individual cases for court action existing under all laws of the Commonwealth;

786 e. Ensuring on a consistent basis that support continues in all cases in which support is assessed
787 administratively or ordered by the court; and

788 f. Provision of its services in establishing paternity and establishing and enforcing support obligations
789 equally to public-assisted and nonpublic-assisted families.

790 To effectuate the purposes of this section, the Commissioner may request and shall receive from the
791 records of state, county and local agencies within and without the Commonwealth, including but not
792 limited to such agencies and entities responsible for vital records; tax and revenue; real and titled
793 personal property; authorizations to engage in a business, trade, profession or occupation; employment
794 security; motor vehicle licensing and registration; public assistance programs and corrections, all
795 information and assistance as authorized by this chapter. The Commissioner may request from state and
796 local criminal justice agencies within the Commonwealth assistance in locating and serving individuals
797 who owe child support and have an outstanding civil show cause summons or capias pursuant to
798 § 16.1-278.16. Solely for the purposes of obtaining motor vehicle licensing and registration information
799 from entities within and without the Commonwealth, the Division of Child Support Enforcement shall
800 be deemed to be a criminal justice agency.

801 With respect to individuals who owe child support or are alleged in a pending paternity proceeding
802 to be a putative father, the Commissioner may request and shall receive the names and addresses of
803 such individuals and the names and addresses of such individuals' employers as appearing in the
804 customer records of public service corporations and companies as defined in § 56-1, cable television
805 companies and financial institutions. All state, county and city departments, boards, bureaus or other
806 entities or agencies, officers and employees shall cooperate in the location of noncustodial parents who
807 have abandoned or deserted, or are failing to support, children and their custodial parents and shall on
808 request supply the Department with all information on hand relative to the location, income, benefits and
809 property of such noncustodial parents, notwithstanding any provision of law making such information
810 confidential. These entities are authorized to provide such information as is necessary for this purpose.
811 Only information directly bearing on the identity and whereabouts of a person owing or asserted to be
812 owing an obligation of support shall be requested and used or transmitted by the Commissioner. The
813 Commissioner may make such information available only to public officials, agencies and political
814 subdivisions of this Commonwealth, and other states seeking to locate parents who have deserted their
815 children and other persons liable for support of dependents for the purpose of enforcing their liability for
816 support. A civil penalty not to exceed \$1,000 may be assessed by the Commissioner for a failure to
817 respond to a request for information made in accordance with this section.

818 Any public or private person, partnership, firm, corporation or association, any financial institution
819 and any political subdivision, department or other entity of the Commonwealth who in good faith and in
820 the absence of gross negligence, willful misconduct or breach of an ethical duty, provide information
821 requested pursuant to this section shall be immune from liability, civil or criminal, that might otherwise
822 result from the release of such information to the Department.

823 § 63.2-1903. Authority to issue certain orders; civil penalty.

824 A. In the absence of a court order, the Department shall have the authority to issue orders directing
825 the payment of child, and child and spousal support and, if available at reasonable cost as defined in
826 § 63.2-1900, to require a provision for health care coverage, *including Department-sponsored health care*
827 *coverage, or cash medical support, or both*, for dependent children of the parents, which shall include
828 the requirements specified for employers pursuant to subdivision A 5 of § 20-79.3. *The Department shall*
829 *have the authority to make available Department-sponsored health care coverage for children receiving*
830 *child support services from the Department.* If health care coverage is unavailable at a reasonable cost
831 ~~through employment of~~, *as defined in § 63.2-1900, or inaccessible to either parent*, the Department shall
832 refer the dependent children to the Family Access to Medical Insurance Security plan pursuant to
833 § 32.1-351. However, prior to referring the dependent children to the Family Access to Medical
834 Insurance Security plan, the Department shall confirm that neither parent has access to health care
835 coverage *at a reasonable cost* for the dependent children ~~through the parents' employment~~. *If a child is*
836 *enrolled in Department-sponsored health care coverage, the Department shall collect the cost of the*
837 *coverage pursuant to subsection E of § 20-108.2.* Liability for child support shall be determined
838 retroactively for the period measured from the date the order directing payment is delivered to the
839 sheriff or process server for service upon the obligor.

840 In ordering the payment of child support, the Department shall set such support at the amount

resulting from computation pursuant to the guideline set out in § 20-108.2, subject to the provisions of § 63.2-1918.

B. When a payee, as defined in § 63.2-1900, no longer has physical custody of a child, the Department shall have the authority to redirect child support payments to a custodial parent who has physical custody of the child when an assignment of rights has been made to the Department or an application for services has been made by such custodial parent with the Division of Child Support Enforcement.

C. The Department shall have the authority, upon notice from the Department of Medical Assistance Services, to use any existing enforcement mechanisms provided by this chapter to collect the wages, salary, or other employment income or to withhold amounts from state tax refunds of any obligor who has not used payments received from a third party to reimburse, as appropriate, either the other parent of such child or the provider of such services, to the extent necessary to reimburse the Department of Medical Assistance Services.

D. The Department may order the obligor and payee to notify each other or the Department upon request of current gross income as defined in § 20-108.2 and any other pertinent information which may affect child support amounts. For good cause shown, the Department may order that such information be provided to the Department and made available to the parties for inspection in lieu of the parties' providing such information directly to each other. The Department shall record the social security number of each party or control number issued to a party by the Department of Motor Vehicles pursuant to § 46.2-342 in the Department's file of the case.

E. The Department shall develop procedures governing the method and timing of periodic review and adjustment of child support orders established or enforced or both pursuant to Title IV-D of the Social Security Act, as amended. ~~At If there is an assignment under Title IV-A of the Social Security Act or at~~ the request of either parent subject to the order ~~or of a state child support enforcement agency~~, the Department shall initiate a review of such order every three years without requiring proof or showing of a change in circumstances, and shall initiate appropriate action to adjust such order in accordance with the provisions of § 20-108.2 and subject to the provisions of § 63.2-1918.

F. In order to provide essential information for whatever establishment or enforcement actions are necessary for the collection of child support, the Commissioner, the Director of the Division of Child Support Enforcement and district managers of Division of Child Support Enforcement offices shall have the right to (i) subpoena financial records of, or other information relating to, the noncustodial parent and obligee from any person, firm, corporation, association, or political subdivision or department of the Commonwealth and (ii) summons the noncustodial parent and obligee to appear in the Division's offices. The Commissioner, Director and district managers may also subpoena copies of state and federal income tax returns. The district managers shall be trained in the correct use of the subpoena process prior to exercising subpoena authority. A civil penalty not to exceed \$1,000 may be assessed by the Commissioner for a failure to respond to a subpoena issued pursuant to this subsection.

G. In the absence of a court order, the Department may establish an administrative support order on an out-of-state obligor if the obligor and the obligee maintained a matrimonial domicile within the Commonwealth. The Department may also take action to enforce an administrative or court order on an out-of-state obligor. Service of such actions shall be in accordance with the provisions of §§ 8.01-296, 8.01-327 or § 8.01-329, or by certified mail, return receipt requested, in accordance with § 63.2-1917.

H. If a support order has been issued in another state but the obligor, the obligee, and the child now live in the Commonwealth, the Department may (i) enforce the order without registration, using all enforcement remedies available under this chapter and (ii) register the order in the appropriate tribunal of the Commonwealth for enforcement or modification.

§ 63.2-1916. Notice of administrative support order; contents; hearing; modification.

The Commissioner may proceed against a noncustodial parent whose support debt has accrued or is accruing based upon subrogation to, assignment of, or authorization to enforce a support obligation. Such obligation may be created by a court order for support of a child or child and spouse or decree of divorce ordering support of a child or child and spouse. In the absence of such a court order or decree of divorce, the Commissioner may, pursuant to this chapter, proceed against a person whose support debt has accrued or is accruing based upon payment of public assistance or who has a responsibility for the support of any dependent child or children and their custodial parent. The administrative support order shall also provide that support shall continue to be paid for any 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 such child reaches the age of 19 or graduates from high school, whichever comes first. The Commissioner shall initiate proceedings by issuing notice containing the administrative support order which shall become effective unless timely contested. The notice shall be served upon the debtor (a) in accordance with the provisions of §§ 8.01-296, 8.01-327 or § 8.01-329 or (b) by certified mail, return receipt requested, or the debtor may accept service by signing a formal

902 waiver. A copy of the notice shall be sent to the obligee by first-class mail. The notice shall include the
903 following:

904 1. A statement of the support debt or obligation accrued or accruing and the basis and authority
905 under which the assessment of the debt or obligation was made. The initial administrative support order
906 shall be effective on the date of service and the first monthly payment shall be due on the first of the
907 month following the date of service and the first of each month thereafter. A modified administrative
908 support order shall be effective the date that notice of the review is served on the nonrequesting party,
909 and the first monthly payment shall be due on the first day of the month following the date of such
910 service and on the first day of each month thereafter. In addition, an amount shall be assessed for the
911 partial month between the effective date of the order and the date that the first monthly payment is due.
912 The assessment for the initial partial month shall be prorated from the effective date through the end of
913 that month, based on the current monthly obligation;

914 2. A statement of the name of the child or children and custodial parent for whom support is being
915 sought;

916 3. A statement that support shall continue to be paid for any child over the age of 18 who is (i) a
917 full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking
918 or receiving child support, until such child reaches the age of 19 or graduates from high school,
919 whichever comes first;

920 4. A demand for immediate payment of the support debt or obligation or, in the alternative, a
921 demand that the debtor file an answer with the Commissioner within 10 days of the date of service of
922 the notice stating his defenses to liability;

923 5. A statement of each party's name, residential and, if different, mailing address, telephone number,
924 driver's license number, and the name, address and telephone number of his employer; however, when a
925 protective order has been issued or the Department otherwise finds reason to believe that a party is at
926 risk of physical or emotional harm from the other party, information other than the name of the party at
927 risk shall not be included in the notice;

928 6. A statement that if no answer is made on or before 10 days from the date of service of the notice,
929 the administrative support order shall be final and enforceable, and the support debt shall be assessed
930 and determined subject to computation, and is subject to collection action;

931 7. A statement that the property of the debtor will be subject to lien and foreclosure, distraint, seizure
932 and sale or an order to withhold and deliver or withholding of earnings;

933 8. A statement that the parents shall keep the Department informed regarding access to health
934 insurance coverage and health insurance policy information and a statement that health care coverage
935 shall be required for the parents' dependent children if available at reasonable cost as defined in
936 § 63.2-1900, or pursuant to subsection A of § 63.2-1903. *If a child is enrolled in Department-sponsored*
937 *health care coverage, the Department shall collect the cost of the coverage pursuant to subsection E of*
938 *§ 20-108.2;*

939 9. A statement of each party's right to appeal and the procedures applicable to appeals from the
940 decision of the Commissioner;

941 10. A statement that the obligor's income shall be immediately withheld to comply with this order
942 unless the obligee, or the Department, if the obligee is receiving public assistance, and obligor agree to
943 an alternative arrangement;

944 11. A statement that any determination of a support obligation under this section creates a judgment
945 by operation of law and as such is entitled to full faith and credit in any other state or jurisdiction;

946 12. A statement that each party shall give the Department written notice of any change in his address
947 or phone number within 30 days;

948 13. A statement that each party shall keep the Department informed of the name, telephone number
949 and address of his current employer; and

950 14. A statement that if any arrearages for child support, including interest or fees, exist at the time
951 the youngest child included in the order emancipates, payments shall continue in the total amount due
952 (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages
953 are paid.

954 If no answer is received by the Commissioner within 10 days of the date of service or acceptance,
955 the administrative support order shall be effective as provided in the notice. The Commissioner may
956 initiate collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or
957 Title 20. The debtor and the obligee have 10 days from the date of receipt of the notice to file an
958 answer with the Commissioner to exercise the right to an administrative hearing.

959 Any changes in the amount of the administrative order must be made pursuant to this section. In no
960 event shall an administrative hearing alter or amend the amount or terms of any court order for support
961 or decree of divorce ordering support. No support order may be retroactively modified, but may be
962 modified with respect to any period during which there is a pending petition for modification in any
963 court, but only from the date that notice of the review has been served on the nonrequesting party.

Notice of the review shall be served for each review (1) in accordance with the provisions of § 8.01-296, 8.01-327 or 8.01-329, or (2) by certified mail, with proof of actual receipt by the addressee, or (3) by the nonrequesting party executing a waiver. The existence of an administrative order shall not preclude either an obligor or obligee from commencing appropriate proceedings in a juvenile and domestic relations district court or a circuit court.

§ 63.2-1924.1. Health care coverage; National Medical Support Notice.

A. All child support orders established and enforced pursuant to this title shall include a provision for health care coverage of dependent children. The Department shall use the National Medical Support Notice (NMSN) to enforce the provision of health care coverage through an employment-related group health plan pursuant to a child support order if available at a reasonable cost, as that term is defined in § 63.2-1900, unless a court or administrative order stipulates alternative health care coverage to employer-based coverage.

B. The Department shall transfer the NMSN to employers within two business days following the date of entry into the State Directory of New Hires of an employee who is obligated to pay child support or to provide health care coverage pursuant to this title. Employers shall transfer the NMSN to the appropriate group plan providing the health care coverage for each eligible child (excluding the severable Notice to Withhold for Health Care Coverage directing the employer to withhold any mandatory employee contributions to the plan) within twenty business days after the date of the NMSN. The Department, in consultation with the custodial parent, shall promptly select from available plan options when the plan administrator reports that there is more than one option available under the plan.

C. Employers shall withhold any obligation of the employee for employee contribution necessary for coverage of each eligible child and send any amount withheld directly to the plan. An employee obligated for contribution necessary for coverage may contest the withholding based on a mistake of fact. If the employee contests the withholding, the employer shall continue to withhold the obligation necessary for coverage until the employer receives notice that the contest is resolved in favor of the employee.

D. Employers shall notify the Department promptly whenever the ~~noncustodial parent's~~ employment of a parent ordered to provide health care coverage is terminated in the same manner as required for income withholding pursuant to § 20-79.3. The Department shall promptly notify an employer when there is no longer a current order for health care coverage in effect for which the Department is responsible.

§ 63.2-1954.1. Distribution of collections including Department-sponsored health care coverage.

Where the Department receives child support payments pursuant to an order that includes Department-sponsored health care coverage, the Department shall deduct the health care cost from the support payment before distribution of the balance of the support payment to the custodial parent. The Department shall forward the cost of the health care coverage to the plan provider. If the payment is insufficient to cover both the monthly child support obligation and either the monthly cost of the Department-sponsored health care coverage or cash medical support in cases where the child is a recipient of Medicaid or the Family Access to Medical Insurance Security Plan as set forth in clause (ii) of the definition of cash medical support in § 63.2-1900, the child support payment shall be paid first. The Department shall establish regulations to address insufficient health care coverage payments.