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SENATE BILL NO. 1141

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 16.1-69.35, 17.1-501, 19.2-386.16, and 52-33 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.32, relating to child abduction.

Patrons—Quayle and Martin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.35, 17.1-501, 19.2-386.16, and 52-33 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 22.2 of Title 19.2 a section numbered 19.2-386.32 as follows:

§ 16.1-69.35. Administrative duties of chief district judge.

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge if such judge consents or the chief district judge may request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court or when in his opinion the administration of justice so requires, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a

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SB1141

59 separate division of such court in that part of Richmond south of the James River with concurrent
60 jurisdiction in civil matters whenever one or more of the defendants reside or the cause of action or any
61 part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that
62 part of the city and exclusive jurisdiction over all other criminal matters arising in that part of the city.

63 5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall
64 determine when the district courts or divisions of such courts shall be open for the transaction of
65 business. The chief judge or presiding judge of any district court may authorize the clerk's office to
66 close on any date when the chief judge or presiding judge determines that operation of the clerk's office,
67 under prevailing conditions, would constitute a threat to the health or safety of the clerk's office
68 personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the
69 same effect as provided in subsection B of § 1-210. In determining whether to close because of a threat
70 to the health or safety of the general public, the chief judge or the presiding judge of the district court
71 shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and
72 appropriate, both the circuit and district courts take the same action. He shall determine the times each
73 such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine
74 whether, in the case of district courts in counties, court shall be held at any place or places in addition
75 to the county seat. He shall determine the office hours and arrange a vacation schedule of the judges
76 within his district, in order to ensure the availability of a judge or judges to the public at normal times
77 of business. A schedule of the times and places at which court is held shall be filed with the Executive
78 Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such
79 other place or places where court may be held, and the clerk shall make such schedules available to the
80 public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district
81 judge, be removed from any one of such designated places to another, or to or from the county seat, in
82 order to serve the convenience of the parties or to expedite the administration of justice; however, any
83 town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with
84 both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge
85 as a place to hold court.

86 6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief
87 judge of a juvenile and domestic relations district court may establish a voluntary civil mediation
88 program for the alternate resolution of disputes. The costs of the program shall be paid by the local
89 governing bodies within the district or by the parties who voluntarily participate in the program.

90 7. *The chief judge of a juvenile and domestic relations district court shall designate a juvenile and*
91 *domestic relations district court judge of the district, with the judge's consent, to hear and dispose of*
92 *proceedings in which a person seeks enforcement of an order for the return of a child under the Hague*
93 *Convention on the Civil Aspects of International Child Abduction.*

94 § 17.1-501. Judges of circuit courts; selection, powers and duties of chief judges; exercise of
95 appointive powers.

96 A. There shall be as many judges of the circuit courts as may be fixed by the General Assembly.
97 The judges of each circuit shall select from their number by majority vote a chief judge of the circuit,
98 who shall serve for the term of two years. In the event such judges cannot agree as to who shall be
99 chief judge, the Chief Justice of the Supreme Court shall act as tie breaker.

100 B. The chief judge of the circuit shall ensure that the system of justice in his circuit operates
101 smoothly and efficiently. He shall have authority to assign the work of the circuit among the judges, and
102 in doing so he may consider the nature and categories of the cases to be assigned. *The chief judge of the*
103 *circuit shall designate a judge of the circuit, with the judge's consent, to hear and dispose of*
104 *proceedings in which a person seeks enforcement of an order for the return of a child under the Hague*
105 *Convention on the Civil Aspects of International Child Abduction.*

106 C. Unless otherwise provided by law, powers of appointment within a circuit shall be exercised by a
107 majority of the judges of the circuit; however, the order of appointment may be signed by the chief
108 judge or that judge's designee on behalf of the other judges. In case of a tie, the Chief Justice of the
109 Supreme Court shall appoint a circuit judge from another circuit who shall act as tie breaker. Where the
110 power of appointment is to be exercised by a majority of the judges of the Second Judicial Circuit and
111 such appointment is to a local post, board or commission in Accomack or Northampton County, the
112 resident judge or judges of the County of Accomack or Northampton shall exercise such appointment
113 power as if he or they comprise the majority of the judges of the circuit.

114 D. No person shall be appointed or reappointed under this section until he has submitted his
115 fingerprints to be used for the conduct of a national criminal records search and a Virginia criminal
116 history records search. No person with a criminal conviction for a felony shall be appointed as a judge.

117 § 19.2-386.16. Forfeiture of motor vehicles used in commission of certain crimes.

118 A. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and
119 during the commission of, or in an attempt to commit, a second or subsequent offense of §§ 18.2-346,
120 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356 or § 18.2-357 or of a similar ordinance of any county,

city or town or knowingly used for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is \$200 or more, or any stolen property obtained as a result of a robbery, without regard to the value of the property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

B. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, *a misdemeanor violation of subsection D of § 18.2-47 or a felony violation of (i) Article 3, Chapter 4 of Title 18.2 (§§ 18.2-47 et seq.), or (ii) § 18.2-357 where the prostitute is a minor, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.*

C. Forfeiture of such vehicle shall be enforced as is provided in §§ 4.1-339 through 4.1-348 as to vehicles used for the transportation of illegally acquired alcoholic beverages, and the provisions of §§ 4.1-339 through 4.1-348 shall apply, mutatis mutandis, to proceedings for the enforcement of such forfeiture except that venue for the forfeiture proceeding shall be in the county or city in which the offense occurred.

D. The agency seizing the motor vehicle or other conveyance shall, for such period of time as the court prescribes, be permitted the use and operation of the motor vehicle or other conveyance, after court forfeiture, for the investigation of crimes against the Commonwealth by the agency seizing the motor vehicle or other conveyance. The agency using or operating each motor vehicle shall have insurance on each vehicle used or operated for liability and property damage.

§ 19.2-386.32. Seizure and forfeiture of property used in connection with the abduction of children.

All moneys and other property, real and personal, owned by a person and used to further the abduction of his child in violation of subsection D of § 18.2-47 are subject to lawful seizure by a law-enforcement officer and are subject to forfeiture to the Commonwealth pursuant to Chapter 22 (§ 19.2-369 et seq.) by order of the court in which a conviction under § 18.2-47 is obtained.

§ 52-33. Powers and duties of Clearinghouse.

The Clearinghouse shall have the following powers and duties:

1. To maintain a centralized file for the exchange of information on missing children within the Commonwealth. The Clearinghouse shall accept a missing child report from any law-enforcement officer as defined in § 9.1-101. Any parent, guardian, legal custodian or other person standing in loco parentis of a missing child may contact the Clearinghouse to verify the entry of a missing child report on such child. If the Clearinghouse is requested to verify a missing child report which has not been received, the Clearinghouse shall immediately contact the appropriate law-enforcement agency and take such measures as may be necessary to determine whether a report should be entered in the centralized file.

2. To maintain a system of intrastate communication to receive information relating to the disappearance or sighting of missing children. Such system shall be available twenty-four hours per day, seven days per week.

3. To maintain close liaison with the National Crime Information Center and the National Center for Missing and Exploited Children for the exchange of information on children suspected of interstate *and international* travel and for assistance in the operation of the Clearinghouse.

4. To circulate a monthly bulletin on missing children to the news media, all law-enforcement agencies, and every school in the Commonwealth.

5. To provide emergency flyers containing physical and situational descriptions of missing children when requested by law-enforcement agencies.

6. To provide for training of public and private organizations regarding the operation of the Clearinghouse.

7. To provide assistance to law-enforcement agencies in planning and implementing programs to fingerprint children.