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## SENATE BILL NO. 1143

Offered January 12, 2011

Prefiled January 12, 2011

A *BILL to amend and reenact § 16.1-278.15 of the Code of Virginia, relating to determination of child support.*

Patron—Quayle

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-278.15 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-278.15. Custody or visitation, child or spousal support generally.

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the court. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that support will continue to be paid for a 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 the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order the continuation of support for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, (b) unable to live independently and support himself, and (c) resides in the home of the parent seeking or receiving child support.

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. A court shall make a determination of child support and enter an order containing such determination at the initial court date on any initial petition for support if the petitioner demonstrates that (i) he has physical custody of the child for whom support is being sought and (ii) he has personally served the respondent with the initial petition seeking child support unless the respondent appears in person on the initial court date. If the court makes a written finding that continuation of the matter is proper, such order shall be entered as a pendente lite order. However, if the respondent contests paternity and the court cannot lawfully establish paternity at the initial hearing, the case shall be continued without the entry of a pendente lite support order.

D. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall be construed to alter or amend the process of attachment of any lien on personal property.

DE. Orders entered prior to July 1, 2008, shall not be deemed void or voidable solely because the petition or motion that resulted in the order was completed, signed and filed by a nonattorney employee

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59 of the Department of Social Services.

60 ~~EF~~. In cases involving charges for desertion, abandonment or failure to provide support by any  
61 person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of  
62 Title 20.

63 ~~FG~~. In cases involving a spouse who seeks spousal support after having separated from his spouse,  
64 the court may enter any appropriate order to protect the welfare of the spouse seeking support.

65 ~~GH~~. In any case or proceeding involving the custody or visitation of a child, the court shall consider  
66 the best interest of the child, including the considerations for determining custody and visitation set forth  
67 in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20.

68 ~~HI~~. In any proceeding before the court for custody or visitation of a child, the court may order a  
69 custody or a psychological evaluation of any parent, guardian, legal custodian or person standing in loco  
70 parentis to the child, if the court finds such evaluation would assist it in its determination. The court  
71 may enter such orders as it deems appropriate for the payment of the costs of the evaluation by the  
72 parties.

73 ~~IJ~~. When deemed appropriate by the court in any custody or visitation matter, the court may order  
74 drug testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. The  
75 court may enter such orders as it deems appropriate for the payment of the costs of the testing by the  
76 parties.