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SENATE BILL NO. 1314

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on February 1, 2023)

(Patron Prior to Substitute—Senator Dunnavant)

A BILL to amend and reenact §§ 20-49.8 and 63.2-1913 of the Code of Virginia, relating to judgment or child support order for pregnancy and delivery expenses.

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-49.8 and 63.2-1913 of the Code of Virginia are amended and reenacted as follows:

§ 20-49.8. Judgment or order; costs; birth record.

A. As used in this section, "pregnancy and delivery expenses" means an amount equal to the sum of a pregnant mother's reasonable and necessary medical costs, minus any portion of such sum that a court determines is equitable based on the totality of the circumstances. Any amount paid by either parent may be credited by a court.

B. A judgment or order establishing parentage may include any provision directed against the appropriate party to the proceeding, concerning the duty of support, including an equitable apportionment of the expenses incurred on behalf of the child from the date the proceeding under this chapter was filed with the court against the alleged parent 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 upon the obligor. The judgment or order may be in favor of the natural parent or any other person or agency who incurred such expenses provided the complainant exercised due diligence in the service of the respondent. The judgment or order may also include provisions for the custody and guardianship of the child, visitation privileges with the child, or any other matter in the best interest of the child. In circumstances where the parent is outside the jurisdiction of the court, the court may enter a further order requiring the furnishing of bond or other security for the payment required by the judgment or order. ~~The~~ *In the event that the initial petition for the establishment of parentage is commenced within six months of the live birth of a child, the judgment or order may direct either party to pay the reasonable and necessary unpaid expenses of shall, except for good cause shown or as otherwise agreed to by the parties, apportion between the legal parents, in proportion to the legal parents' gross incomes, as used for calculating the monthly child support obligation pursuant to § 20-108.2, (i) the mother's unpaid or unreimbursed pregnancy and delivery or equitably apportion the unpaid expenses between the parties expenses and (ii) those reasonable expenses incurred by either parent for the benefit of the child prior to the birth of the child.* However, when the Commonwealth, through the Medicaid program or other government program, has paid such expenses, the court may order reimbursement from the legal parent to the Commonwealth for such expenses.

~~B.~~ C. A determination of paternity made by any other state shall be given full faith and credit, whether established through voluntary acknowledgment or through administrative or judicial process; provided, however, that, except as may otherwise be required by law, such full faith and credit shall be given only for the purposes of establishing a duty to make payments of support and other payments contemplated by subsection A.

~~C.~~ D. For each court determination of parentage made under the provisions of this chapter, a certified copy of the order or judgment shall be transmitted to the State Registrar of Vital Records by the clerk of the court within thirty days after the order becomes final. Such order shall set forth the full name and date and place of birth of the person whose parentage has been determined, the full names of both parents, including the maiden name, if any, of the mother and the name and address of an informant who can furnish the information necessary to complete a new birth record. In addition, when the State Registrar receives a document signed by a man indicating his consent to submit to scientifically reliable genetic tests, including blood tests, to determine paternity and the genetic test results affirming at least a ninety-eight percent probability of paternity, a new birth record shall be completed as provided in § 32.1-261. When the State Registrar receives a copy of a judgment or order for a person born outside of this Commonwealth, such order shall be forwarded to the appropriate registration authority in the state of birth or the appropriate federal agency.

§ 63.2-1913. Administrative establishment of paternity.

The Department may establish the parent and child relationship between a child and a man upon request, verified by oath or affirmation, filed by a child, a parent, a person claiming parentage, a person standing in loco parentis to the child or having legal custody of the child, or a representative of the Department or the Department of Juvenile Justice. The request may be filed at any time before the child attains the age of eighteen years.

Pursuant to subsection F of § 63.2-1903, the Department may summons a parent or putative parent to

60 appear in the office of the Division of Child Support Enforcement to provide such information as may
61 be necessary to the proceeding.

62 Paternity may be established by a written statement of the father and mother made under oath
63 acknowledging paternity or scientifically reliable genetic tests, including blood tests, which affirm at
64 least a ninety-eight percent probability of paternity. The Department may order genetic testing and shall
65 pay the costs of such tests, subject to recoupment from the father, if paternity is established. Where an
66 original test is contested and additional testing is requested, the Department may require advance
67 payment by the contestant.

68 Before a voluntary acknowledgment of paternity is accepted by the Department as the basis for
69 establishing paternity, the Department shall provide to both the mother and the putative father a written
70 and oral description of the rights and responsibilities of acknowledging paternity and the consequences
71 that arise from a signed acknowledgment, including the right to rescind the acknowledgment within the
72 earlier of (i) sixty days from the date of signing or (ii) the date of entry of an order in an administrative
73 or judicial proceeding relating to the child in which the signatory is a party.

74 A genetic test result affirming at least a ninety-eight percent probability of paternity shall have the
75 same legal effect as a judgment entered pursuant to § 20-49.8. When sixty days have elapsed from its
76 signing, a voluntary statement acknowledging paternity shall have the same legal effect as a judgment
77 entered pursuant to § 20-49.8 and shall be binding and conclusive unless, in a subsequent judicial
78 proceeding, the person challenging the statement establishes that the statement resulted from fraud,
79 duress or a material mistake of fact. In any subsequent proceeding in which a statement acknowledging
80 paternity is subject to challenge, the legal responsibilities of any person signing it shall not be suspended
81 during the pendency of the proceeding, except for good cause shown.

82 The order of the Department in proceedings pursuant to this section shall be served upon the putative
83 father in accordance with the provisions of Chapter 8 (§ 8.01-285 et seq.) or Chapter 9 (§ 8.01-328 et
84 seq.) of Title 8.01. The Department shall file a copy of its order determining paternity, including the
85 information required by subsection *C* of § 20-49.8, with the State Registrar of Vital Records within
86 thirty days after the acknowledgment becomes binding and conclusive or the order otherwise becomes
87 final. No judicial or administrative proceeding shall be required to ratify an unchallenged
88 acknowledgment of paternity nor shall the Department or the courts have any jurisdiction over
89 proceedings to ratify an unchallenged acknowledgment.