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HOUSE BILL NO. 2506

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 5, 1995)

(Patron Prior to Substitute—Delegate Marshall)

A BILL to amend and reenact § 20-103 of the Code of Virginia, relating to court orders pending suit for divorce, custody or visitation.

Be it enacted by the General Assembly of Virginia:

1. That § 20-103 of the Code of Virginia is amended and reenacted as follows:

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

A. In suits for divorce, annulment and separate maintenance, and in proceedings arising under subdivision A 3 or L of § 16.1-241, the court having jurisdiction of the matter may, at any time pending a suit pursuant to this chapter, in the discretion of such court, make any order that may be proper (i) to compel a spouse to pay any sums necessary for the maintenance and support of the petitioning spouse, including an order that the other spouse provide health care coverage for the petitioning spouse, unless it is shown that such coverage cannot be obtained, (ii) to enable such spouse to carry on the suit, (iii) to prevent either spouse from imposing any restraint on the personal liberty of the other spouse, (iv) to provide for the custody and maintenance of the minor children of the parties, including an order that either party provide health care coverage for the children, (v) to provide support for any child of the parties under the age of nineteen who is a full-time high school student and who otherwise meets the requirements set forth in § 20-107.2, (vi) for the exclusive use and possession of the family residence during the pendency of the suit, (vii) to preserve the estate of either spouse, so that it be forthcoming to meet any decree which may be made in the suit or (viii) to compel either spouse to give security to abide such decree. *In such suits in which the custody, visitation or support of a minor child is at issue, the court may order the parties to attend at least one educational or informational session with a person deemed suitable by the court on the effects of divorce on children. Participation in additional sessions shall be by consent of all parties. No statement or admission by a party in any such session shall be admissible into evidence in any subsequent proceeding.*

B. Upon a showing by a party of reasonable apprehension of physical harm to that party by such party's spouse, and consistent with rules of the Supreme Court of Virginia, the court may enter an order excluding that party's spouse 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 spouse from the family dwelling for a period in excess of fifteen days from the date the order is served, in person, upon the spouse so excluded. The order may provide for an extension of time beyond the fifteen days, to become effective automatically. The spouse 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 paragraph for such longer period of time as is deemed appropriate, after a hearing on notice to the parties.

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 Title 20.

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