

LD0538252

HOUSE BILL NO. 517

Offered January 24, 1994

A *BILL to amend and reenact §§ 16.1-278.15, as it is currently effective and as it may become effective, and 20-107.2 of the Code of Virginia, relating to child support.*

Patron—Grayson

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-278.15, as it is currently effective and as it may become effective, and 20-107.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-278.15. (For effective date - See note) 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. If support is ordered for a child, the order shall provide that support will continue to be paid for a child *of whatever age who is disabled, not self-supporting and living in the home of the parent seeking or receiving support, and for a child* 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 nineteen or graduates from high school, whichever occurs first.

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. 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.

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

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

F. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best interest of the child, including the considerations for determining custody and visitation set forth in § 20-107.2.

§ 16.1-278.15. (Delayed effective date - See notes) 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. If support is ordered for a child, the order shall provide that support will continue to be paid for a child *of whatever age who is disabled, not self-supporting and living in the home of the parent seeking or receiving support, and for a child* 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 nineteen or graduates from high school, whichever occurs first.

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 family 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. 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.

D. In cases involving charges for desertion, abandonment or failure to provide support by any person

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60 in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

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

63 F. In any case or proceeding involving the custody or visitation of a child, the court shall consider
64 the best interest of the child, including the considerations for determining custody and visitation set forth
65 in § 20-107.2.

66 § 20-107.2. Court may decree as to custody and support of minor children.

67 Upon decreeing the dissolution of a marriage, and also upon decreeing a divorce, whether from the
68 bond of matrimony or from bed and board, and upon decreeing that neither party is entitled to a
69 divorce, the court may make such further decree as it shall deem expedient concerning the custody,
70 visitation and support of the minor children of the parties, including an order that either party provide
71 health care coverage. In any case involving the custody or visitation of a child, the court may award
72 custody or visitation to any party with a legitimate interest therein, including but not limited to,
73 grandparents, stepparents, former stepparents, blood relatives and family members provided any such
74 party has intervened in the suit or is otherwise properly before the court. The term "legitimate interest"
75 shall be construed broadly to accommodate the best interests of the child. The court may also order that
76 support be paid for any child of the parties and, if support is ordered, the court shall order that it will
77 continue to be paid for any child of *whatever age who is disabled, not self-supporting and living in the*
78 *home of the parent seeking or receiving support, and for a child* who is (i) a full-time high school
79 student, (ii) not self-supporting and (iii) living in the home of the parent seeking or receiving child
80 support until such child reaches the age of nineteen or graduates from high school, whichever first
81 occurs. However, the court may confirm a stipulation or agreement of the parties which extends a
82 support obligation beyond when it would otherwise terminate as provided by law. The court shall have
83 no authority to decree support of children payable by the estate of a deceased party.

84 The court, in determining custody and visitation of minor children, shall consider the following:

- 85 1. The age and physical and mental condition of the child or children;
- 86 2. The age and physical and mental condition of each parent;
- 87 3. The relationship existing between each parent and each child;
- 88 4. The needs of the child or children;
- 89 5. The role which each parent has played, and will play in the future, in the upbringing and care of
90 the child or children;
- 91 6. The propensity of each parent to allow the child contact with the other parent and the relative
92 willingness and demonstrated ability of each parent to maintain a close and continuing relationship with
93 the child;
- 94 7. The reasonable preference of the child, if the court deems the child to be of reasonable
95 intelligence, understanding, age and experience to express such a preference;
- 96 8. Any history of family abuse as defined in § 16.1-228; and
- 97 9. Such other factors considered by the court to be relevant to the best interests of the child.

98 In awarding the custody of the child or children, the court may give consideration to joint custody or
99 to sole custody, but shall give primary consideration to the welfare of the child or children, and, as
100 between the parents, there shall be no presumption or inference of law in favor of either.

101 For the purposes of this section, "joint custody" means (i) joint legal custody where both parents
102 retain joint responsibility for the care and control of the child and joint authority to make decisions
103 concerning the child even though the child's primary residence may be with only one parent, (ii) joint
104 physical custody where both parents share physical and custodial care of the child or (iii) any
105 combination of joint legal and joint physical custody which the court deems to be in the best interest of
106 the child.

107 In any proceeding involving custody or visitation, the court shall include as a condition of any
108 custody or visitation order a requirement that thirty days' advance written notice be given to the court
109 and the other party by any party intending to relocate and of any intended change of address, unless the
110 court, for good cause shown, orders otherwise. The court may require that the notice be in such form
111 and contain such information as it deems proper and necessary under the circumstances of the case.

112 Notwithstanding any other provision of law, neither parent shall be denied access to the academic,
113 medical, hospital or other health records of that parent's minor child unless otherwise ordered by the
114 court for good cause shown.