

VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

CHAPTER 884

An Act to amend and reenact §§ 20-49.1, 20-60.3, 20-60.6 and 63.1-250.2:1 of the Code of Virginia, relating to establishment of paternity and child support enforcement.

[H 1372]

Approved April 22, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-49.1, 20-60.3, 20-60.6 and 63.1-250.2:1 of the Code of Virginia are amended and reenacted as follows:

§ 20-49.1. How parent and child relationship established.

A. The parent and child relationship between a child and a woman may be established prima facie by proof of her having given birth to the child, or as otherwise provided in this chapter.

B. The parent and child relationship between a child and a man may be established by a ~~written statement of the father and mother made under oath acknowledging paternity or subsequent:~~

1. Scientifically reliable genetic tests, including blood tests, which affirm at least a ninety-eight percent probability of paternity. Such a genetic test ~~result~~ *results* shall have the same legal effect as a judgment entered pursuant to § 20-49.8.

2. ~~When sixty days have elapsed from its signing,~~ A voluntary *written statement (i) of the father and mother made under oath* acknowledging paternity and *(ii) confirming that prior to signing the acknowledgment, the person was parties were provided with a written and oral description of the rights and responsibilities of acknowledging paternity; and the consequences arising from a signed acknowledgment, including the right to rescind. The acknowledgement may be rescinded by either party within sixty days from the date on which it was signed unless an administrative or judicial order relating to the child in an action to which the party seeking rescission was a party is entered prior to the rescission. A written statement shall have the same legal effect as a judgment entered pursuant to § 20-49.8 and shall be binding and conclusive unless, in a subsequent judicial proceeding, the person challenging the statement establishes that the statement resulted from fraud, duress or a material mistake of fact. In any subsequent proceeding in which a statement acknowledging paternity is subject to challenge, the legal responsibilities of any person signing it shall not be suspended during the pendency of the proceeding, except for good cause shown. In the absence of such acknowledgment or if the probability of paternity is less than ninety-eight percent, such relationship may be established as otherwise provided in this chapter.* Written acknowledgments of paternity made under oath by the father and mother prior to July 1, 1990, shall have the same legal effect as a judgment entered pursuant to § 20-49.8.

3. *In the absence of such acknowledgment or if the probability of paternity is less than ninety-eight percent, such relationship may be established as otherwise provided in this chapter.*

C. The parent and child relationship between a child and an adoptive parent may be established by proof of lawful adoption.

§ 20-60.3. Contents of support orders.

All orders directing the payment of child or spousal support, including those orders confirming separation agreements, entered on or after October 1, 1985, whether they are original orders or modifications of existing orders, shall contain the following:

1. Notice that support payments may be withheld as they become due pursuant to § 20-79.1 or § 20-79.2, from earnings as defined in § 63.1-250, without further amendments of this order or having to file an application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to § 20-79.1;

2. Notice that support payments may be withheld pursuant to Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 without further amendments to the order upon application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to Chapter 13 of Title 63.1;

3. The names and dates of birth of each child to whom a duty of support is then owed by the person responsible for support;

4. If known, the name, date of birth and social security number of each parent of the child and, if different and if known, the name, date of birth and social security number of the person responsible for support and, unless otherwise ordered, each parent or responsible person's residential and, if different, mailing address, residential and employer telephone number, driver's license number, and the name and address of his or her employer; however, when a protective order has been issued or the court otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party,

information other than the name of the party at risk shall not be included in the order;

5. On and after July 1, 1994, notice that a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business or occupation issued by the Commonwealth to a person responsible for support as provided in § 63.1-263.1 upon a delinquency for a period of ninety days or more or in an amount of \$5,000 or more. The order shall indicate whether either or both parents currently hold such an authorization and, if so, the type of authorization held;

6. The amount of periodic support expressed in fixed sums, together with the payment interval, the date payments are due, and the date the first payment is due;

7. An order for health care coverage, including the health insurance policy information, for dependent children pursuant to §§ 20-108.1 and 20-108.2 if available at reasonable cost as defined in § 63.1-250 and a statement as to whether there is an order for health care coverage for a spouse or former spouse;

8. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the arrearage, (ii) the period of time for which such arrearage is calculated, and (iii) a direction that all payments are to be credited to current support obligations first, with any payment in excess of the current obligation applied to arrearages;

9. If child support payments are ordered to be paid through the Department of Social Services *or directly to the obligee*, and unless the court for good cause shown orders otherwise, the parties shall give each other and *the court and, when payments are to be made through the Department*, the Department of Social Services at least thirty days' written notice, in advance, of any change of address and any change of telephone number within thirty days after the change;

10. If child support payments are ordered to be paid through the Department of Social Services, a provision requiring a ~~an delinquent~~ obligor to keep the Department of Social Services informed of the name, address and telephone number of his current employer, *or if payments are ordered to be paid directly to the obligee, a provision requiring an obligor to keep the court informed of the name, address and telephone number of his current employer*;

11. The separate amounts due to each person under the order, unless the court specifically orders a unitary award of child and spousal support due or the order affirms a separation agreement containing provision for such unitary award;

12. Notice that in determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law; and

13. Notice that on and after July 1, 1994, the Department of Social Services may, pursuant to Chapter 13 of Title 63.1 and in accordance with §§ 20-108.2 and 63.1-252.2, initiate a review of the amount of support ordered by any court.

§ 20-60.6. When delivery of notice to party at last known address sufficient.

In any subsequent child support enforcement proceeding between the parties, upon sufficient showing that diligent effort was made to ascertain the location of a party, that party may be served with any required notice by delivery of the written notice to that party's residential or business address as filed with the court pursuant to § 20-60.3 or the Department of Social Services, or if changed, as shown in the records of the Department of Social Services *or the court*. However, any person served with notice as provided in this section may challenge, in a subsequent judicial proceeding, an order entered based upon such service on the grounds that he did not receive the notice and enforcement of the order would constitute manifest injustice.

§ 63.1-250.2:1. When delivery of notice to party at last known address may be deemed sufficient.

In any subsequent child support enforcement proceeding between the parties, upon sufficient showing that diligent effort was made to ascertain the location of a party, that party may be served with any required notice by delivery of the written notice to that party's residential or business address as filed with the court pursuant to § 20-60.3 or the Department of Social Services, or if changed, as shown in the records of the Department of Social Services *or the court*. However, any person served with notice as provided in this section may challenge, in a subsequent judicial proceeding, an order entered based upon such service on the grounds that he did not receive the notice and enforcement of the order would constitute manifest injustice.