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SENATE BILL NO. 70

Offered January 10, 2018

Prefiled November 30, 2017

A *BILL to amend the Code of Virginia by adding sections numbered 20-124.3:2, 63.2-901.2, and 63.2-1200.01, relating to rights of parents with a disability.*

Patrons—Favola; Delegates: Kory and Thomas

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 20-124.3:2, 63.2-901.2, and 63.2-1200.01 as follows:

§ 20-124.3:2. Custody and visitation rights; parents with a disability.

A. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, or a record of such impairment.

"Supportive parenting services" means services that may assist a parent with a disability in the effective use of techniques and other methods to enable the parent with a disability to discharge parenting responsibilities as successfully as a parent who does not have a disability and includes nonvisual techniques for parents who are blind.

B. A parent's disability shall not serve as the sole basis for the denial or restriction of custody or visitation, provided that the court finds such custody or visitation is otherwise in the best interests of the child.

C. If a party alleges that such parent's disability should (i) be a factor to be considered as not in the best interests of the child or (ii) otherwise be a reason for the denial or restriction of custody or visitation, the party making such allegation must prove that the best interests of the child would not be served or met due to such parent's disability or that such parent's disability should serve as the basis for such denial or restriction.

D. If the party meets his burden pursuant to subsection C, the parent with a disability shall be afforded reasonable opportunity to demonstrate how supportive parenting services would appropriately address any threats to the best interests of the child or reasons to otherwise deny or restrict custody or visitation. Upon request of the parent with a disability or in its discretion, the court may order such supportive parenting services for the parent with a disability after the service provider has been provided with notice and an opportunity to be heard.

E. The court shall communicate in writing the basis of the decision of custody or visitation wherein the custody or visitation rights of a parent with a disability are denied or restricted. If a court does not order supportive parenting services for the parent with a disability pursuant to subsection D, the basis of such a decision shall also be in writing.

§ 63.2-901.2. Prospective foster parents with a disability.

A. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, or a record of such impairment.

"Supportive parenting services" means services that may assist a foster parent with a disability or prospective foster parent with a disability in the effective use of techniques and other alternative methods to enable the foster parent with a disability or prospective foster parent with a disability to discharge foster parenting responsibilities as successfully as a foster parent or prospective foster parent who does not have a disability and includes nonvisual techniques for foster parents or prospective foster parents who are blind.

B. A foster parent's or prospective foster parent's disability shall not serve as the sole basis for the denial of placement or approval of placement in such prospective foster care parent's home, or removal from such foster parent's home, provided that the court finds such a placement is otherwise in the best interests of the child and the foster parent with a disability or prospective foster parent with a disability is otherwise qualified to be a foster parent.

C. If a party alleges that such foster parent's disability or prospective foster parent's disability should (i) be a factor to be considered as not in the best interests of the child or (ii) otherwise be a reason to deny or remove a child from such a placement, the party making such allegation must prove that the best interests of the child would not be served or met due to such foster parent's or prospective foster parent's disability or that such disability should be a reason to deny or remove a child from such

59 placement.

60 D. If the party meets his burden pursuant to subsection C, the foster parent with a disability or
61 prospective foster parent with a disability shall be afforded reasonable opportunity to demonstrate how
62 supportive parenting services would appropriately address any threats to the best interests of the child
63 or reasons to deny or remove a child from such placement. Upon request of the foster parent with a
64 disability or prospective foster parent with a disability or in its discretion, the court may order such
65 supportive parenting services for the foster parent with a disability or prospective foster parent with a
66 disability after the service provider has been provided with notice and an opportunity to be heard.

67 E. The court shall communicate in writing the basis of the decision of a denial of placement or
68 approval of placement in the home of a prospective foster care parent with a disability or removal from
69 the home of a foster parent with a disability. If a court does not order supportive parenting services for
70 the foster parent with a disability or prospective foster parent with a disability pursuant to subsection
71 D, the basis of such a decision shall also be in writing.

72 **§ 63.2-1200.01. Prospective adoptive parents with a disability.**

73 A. As used in this section:

74 "Disability" means a physical or mental impairment that substantially limits one or more of a
75 person's major life activities, or a record of such impairment.

76 "Supportive parenting services" means services that may assist a prospective adoptive parent with a
77 disability in the effective use of techniques and other alternative methods to enable the prospective
78 adoptive parent with a disability to discharge parenting responsibilities as successfully as a parent
79 without a disability and includes nonvisual techniques for prospective adoptive parents who are blind.

80 B. A prospective adoptive parent's disability shall not serve as the sole basis for the denial of entry
81 of a final order of adoption naming such prospective adoptive parent with a disability as parent,
82 provided that the court finds such an adoption is otherwise in the best interests of the child and such
83 prospective adoptive parent with a disability is otherwise qualified to adopt.

84 C. If a party alleges that a prospective adoptive parent's disability should (i) be a factor to be
85 considered as not in the best interests of the child or (ii) otherwise be a reason to deny entry of a final
86 order of adoption naming such prospective adoptive parent with a disability as parent, the party making
87 such allegation must prove that the best interests of the child would not be served or met due to such
88 prospective adoptive parent's disability or that such prospective adoptive parent's disability should be a
89 reason to deny entry of a final adoption order naming such prospective adoptive parent with a disability
90 as parent.

91 D. If the party meets his burden pursuant to subsection C, the prospective adoptive parent with a
92 disability shall be afforded reasonable opportunity to demonstrate how supportive parenting services
93 would appropriately address any threats to the best interests of the child or reasons to deny entry of
94 such a final order. Upon request of the prospective adoptive parent with a disability or in its discretion,
95 the court may order such supportive parenting services for the prospective adoptive parent with a
96 disability after the service provider has been provided with notice and an opportunity to be heard.

97 E. The court shall communicate in writing the basis of the decision of a denial of a final order of
98 adoption naming the prospective adoptive parent with a disability as parent. If a court does not order
99 supportive parenting services for the prospective adoptive parent with a disability pursuant to subsection
100 D, the basis of such a decision shall also be in writing.