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HOUSE BILL NO. 212

Offered January 8, 2020

Prefiled December 27, 2019

A BILL to amend and reenact §§ 20-124.3 and 63.2-1213 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-901.2, relating to custody and visitation arrangements; final orders of adoption; foster care; use of cannabidiol oil or THC-A oil.

Patrons—Hurst, Delaney and Carr

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-124.3 and 63.2-1213 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-901.2 as follows:

§ 20-124.3. Best interests of the child; visitation.

In determining best interests of a child for purposes of determining custody or visitation arrangements including any pendente lite orders pursuant to § 20-103, the court shall consider the following:

1. The age and physical and mental condition of the child, giving due consideration to the child's changing developmental needs;

2. The age and physical and mental condition of each parent. *The use of cannabidiol oil or THC-A oil, for which a parent has a written certification issued by a practitioner pursuant to § 54.1-3408.3, shall not serve as the sole basis for the denial or restriction of custody or visitation;*

3. The relationship existing between each parent and each child, giving due consideration to the positive involvement with the child's life, the ability to accurately assess and meet the emotional, intellectual and physical needs of the child;

4. The needs of the child, giving due consideration to other important relationships of the child, including but not limited to siblings, peers and extended family members;

5. The role that each parent has played and will play in the future, in the upbringing and care of the child;

6. The propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child;

7. The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes regarding matters affecting the child;

8. The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age and experience to express such a preference;

9. Any history of family abuse as that term is defined in § 16.1-228 or sexual abuse. If the court finds such a history, the court may disregard the factors in subdivision 6; and

10. Such other factors as the court deems necessary and proper to the determination.

The judge shall communicate to the parties the basis of the decision either orally or in writing. Except in cases of consent orders for custody and visitation, this communication shall set forth the judge's findings regarding the relevant factors set forth in this section. At the request of either party, the court may order that the exchange of a child shall take place at an appropriate meeting place.

§ 63.2-901.2. Use of cannabidiol oil or THC-A oil by a foster parent pursuant to written certification.

The use of cannabidiol oil or THC-A oil by a foster parent, for which such foster parent has a written certification issued by a practitioner pursuant to § 54.1-3408.3, shall not serve as the sole basis for the removal of a child from such foster parent's home.

The use of cannabidiol oil or THC-A oil by a prospective foster parent, for which such prospective foster parent has a written certification issued by a practitioner pursuant to § 54.1-3408.3, shall not serve as the sole basis for the denial of such person's eligibility to become a foster parent.

§ 63.2-1213. Final order of adoption.

After consideration of the report made pursuant to § 63.2-1212 or as permitted pursuant to § 63.2-1210, if the circuit court is satisfied that the best interests of the child will be served thereby, the circuit court shall enter the final order of adoption. However, a final order of adoption shall not be entered until information has been furnished by the petitioner in compliance with § 32.1-262 unless the circuit court, for good cause shown, finds the information to be unavailable or unnecessary. No circuit

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59 court shall deny a petitioner a final order of adoption for the sole reason that the child was placed in the
60 physical custody of the petitioner by a person not authorized to make such placements pursuant to
61 § 63.2-1200. *No circuit court shall deny a petitioner a final order of adoption for the sole reason that*
62 *such petitioner uses cannabidiol oil or THC-A oil for which such petitioner has a written certification*
63 *issued by a practitioner pursuant to § 54.1-3408.3.* An attested copy of every final order of adoption
64 shall be forwarded, by the clerk of the circuit court in which it was entered, to the Commissioner and to
65 the child-placing agency that placed the child or to the local director, in cases where the child was not
66 placed by an agency.