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HOUSE BILL NO. 2486

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact § 20-124.3 of the Code of Virginia, relating to best interests of the child; custody; orders to return a minor child; violations of orders regarding motions to relocate.

Patron—Zehr

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 20-124.3 of the Code of Virginia is amended and reenacted 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;

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 (i) family abuse as that term is defined in § 16.1-228; (ii) sexual abuse; (iii) child abuse; or (iv) an act of violence, force, or threat as defined in § 19.2-152.7:1 that occurred no earlier than 10 years prior to the date a petition is filed. If the court finds such a history or act, the court may disregard the factors in subdivision 6; and

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

In any case in which a party to a custody case (i) was subject to an order to return a minor child or (ii) violated a stay on or denial of a motion to relocate within the previous 10 years of such custody case, there shall be a presumption that it is in the best interests of the child for such child to be placed in the primary custody of the party not subject to or in violation of any such order; the court shall award attorney fees and costs to such party, except for good cause shown as to why such an award is not in the interest of justice.

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.

INTRODUCED

HB2486