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1 **HOUSE BILL NO. 768**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact § 20-124.2 of the Code of Virginia, relating to custody and visitation*  
5 *arrangements for minor; custody evaluation.*

6 Patron—Herring

7 Committee Referral Pending

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 20-124.2 of the Code of Virginia is amended and reenacted as follows:**10 **§ 20-124.2. Court-ordered custody and visitation arrangements.**11 A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district  
12 court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and  
13 visitation arrangements, including support and maintenance for the children, prior to other considerations  
14 arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures  
15 for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of  
16 justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to  
17 litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include  
18 development of a proposal addressing the child's residential schedule and care arrangements, and how  
19 disputes between the parents will be handled in the future.20 B. In determining custody, the court shall give primary consideration to the best interests of the child. The  
21 court shall consider and may award joint legal, joint physical, or sole custody, and there shall be no  
22 presumption in favor of any form of custody. The court shall assure minor children of frequent and  
23 continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities  
24 of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of  
25 either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing  
26 by clear and convincing evidence that the best interest of the child would be served thereby award custody or  
27 visitation to any other person with a legitimate interest.28 B1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may,  
29 in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."30 B2. In any case or proceeding in which a grandparent has petitioned the court for visitation with a minor  
31 grandchild, and a natural or adoptive parent of the minor grandchild is deceased or incapacitated, the  
32 grandparent who is related to such deceased or incapacitated parent shall be permitted to introduce evidence  
33 of such parent's consent to visitation with the grandparent, in accordance with the rules of evidence. If the  
34 parent's consent is proven by a preponderance of the evidence, the court may then determine if grandparent  
35 visitation is in the best interest of the minor grandchild. For the purposes of this subsection, "incapacitated  
36 parent" has the same meaning ascribed to the term "incapacitated person" in § 64.2-2000.37 C. The court may order that support be paid for any child of the parties. Upon request of either party, the  
38 court may order that such support payments be made to a special needs trust or an ABLE savings trust  
39 account as defined in § 23.1-700. The court shall also order that support will continue to be paid for any child  
40 over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the  
41 home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from  
42 high school, whichever first occurs. The court may also order that support be paid or continue to be paid for  
43 any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such  
44 disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of  
45 clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of  
46 the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of  
47 the parties which extends a support obligation beyond when it would otherwise terminate as provided by law.  
48 The court shall have no authority to decree support of children payable by the estate of a deceased party. The  
49 court may make such further decree as it shall deem expedient concerning support of the minor children,  
50 including an order that either party or both parties provide health care coverage or cash medical support, or  
51 both.52 D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district  
53 court, the court may order a *custody evaluation in accordance with subsection H of § 16.1-278.15* or an  
54 independent mental health or psychological evaluation to assist the court in its determination of the best  
55 interests of the child. The court may enter such order as it deems appropriate for the payment of the costs of  
56 the evaluation by the parties.

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59       E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary  
60       to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to  
61       punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent  
62       or other person having legal custody of a child may petition the court to enjoin and the court may enter an  
63       order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for  
64       any period of time up to 10 years if doing so is in the best interests of the child and such parent has been  
65       convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state,  
66       the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a  
67       felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child  
68       of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the  
69       child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious  
70       bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with  
71       whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for  
72       custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

73       F. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the  
74       child up from school is entered pursuant to this section or § 20-103, the court shall order a party to such case  
75       or proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled  
76       within three business days of such party's receipt of such custody or visitation order.

77       If a custody determination affects the school enrollment of the child subject to such custody order and  
78       prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such  
79       custody order to the school at which the child will be enrolled within three business days of such party's  
80       receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall  
81       further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of  
82       such custody or visitation order to the new school at which the child is subsequently enrolled within three  
83       business days of such enrollment.

84       If the court determines that a party is unable to deliver the custody or visitation order to the school, such  
85       party shall provide the court with the name of the principal and address of the school, and the court shall  
86       cause the order to be mailed by first class mail to such school principal.

87       Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of  
88       such custody or visitation order.