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HOUSE BILL NO. 942**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice

on March 2, 2026)

(Patron Prior to Substitute—Delegate Clark)

A *BILL to amend and reenact §§ 16.1-278.15 and 20-124.2 of the Code of Virginia, relating to custody and visitation; possession or consumption of authorized substances.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-278.15 and 20-124.2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-278.15. Custody or visitation, child or spousal support generally.

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the Office of the Executive Secretary of the Supreme Court of Virginia. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. Upon request of either party, the court may also order that support payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700.

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. For purposes of this section, a party with a legitimate interest shall also include a parent whose rights previously had been terminated, provided that the child whose custody or visitation is at issue (i) is at least 14 years of age; (ii) has had a permanency goal previously achieved by adoption; (iii) has had his adoptive parents die or, pursuant to § 16.1-277.02, each of such child's adoptive parents has permanently been relieved of custody of such child and each adoptive parent has had his parental rights terminated; and (iv) is in the custody of a local board of social services, and provided that the parent whose rights had previously been terminated has (a) complied with the terms of any written post-adoption contact and communication agreement entered into pursuant to Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 and (b) maintained a positive, continuous relationship with the child since termination. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall be construed to alter or amend the process of attachment of any lien on personal property.

D. Orders entered prior to July 1, 2008, shall not be deemed void or voidable solely because the petition or motion that resulted in the order was completed, signed and filed by a nonattorney employee of the

60 Department of Social Services.

61 E. In cases involving charges for desertion, abandonment or failure to provide support by any person in
62 violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

63 F. In cases involving a spouse who seeks spousal support after having separated from his spouse, the court
64 may enter any appropriate order to protect the welfare of the spouse seeking support.

65 G. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best
66 interest of the child, including the considerations for determining custody and visitation set forth in Chapter
67 6.1 (§ 20-124.1 et seq.) of Title 20.

68 G1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may,
69 in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."

70 H. In any proceeding before the court for custody or visitation of a child, the court may order a custody or
71 a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the
72 child, if the court finds such evaluation would assist it in its determination. The court may enter such orders
73 as it deems appropriate for the payment of the costs of the evaluation by the parties.

74 I. When deemed appropriate by the court in any custody or visitation matter, the court may order drug
75 testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. *Such parent,*
76 *guardian, legal custodian, or person standing in loco parentis to the child shall not be construed to have*
77 *failed a drug test if such drug test includes a positive result for such substance authorized under Title 4.1 or*
78 *Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1. The court may enter such orders as it deems appropriate for the*
79 *payment of the costs of the testing by the parties. A person's legal possession or consumption of substances*
80 *authorized under Title 4.1 or Chapter 34 of Title 54.1 alone shall not serve as a basis to restrict custody or*
81 *visitation unless other facts establish that such possession or consumption is not in the best interest of the*
82 *child.*

83 J. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the
84 child up from school is entered pursuant to this section, the court shall order a party to such case or
85 proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled
86 within three business days of such party's receipt of such custody or visitation order.

87 If a custody determination affects the school enrollment of the child subject to such custody order and
88 prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such
89 custody order to the school at which the child will be enrolled within three business days of such party's
90 receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall
91 further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of
92 such custody or visitation order to the new school at which the child is subsequently enrolled within three
93 business days of such enrollment.

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

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

99 **§ 20-124.2. Court-ordered custody and visitation arrangements.**

100 A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district
101 court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and
102 visitation arrangements, including support and maintenance for the children, prior to other considerations
103 arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures
104 for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of
105 justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to
106 litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include
107 development of a proposal addressing the child's residential schedule and care arrangements, and how
108 disputes between the parents will be handled in the future.

109 B. In determining custody, the court shall give primary consideration to the best interests of the child. The
110 court shall consider and may award joint legal, joint physical, or sole custody, and there shall be no
111 presumption in favor of any form of custody. The court shall assure minor children of frequent and
112 continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities
113 of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of
114 either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing
115 by clear and convincing evidence that the best interest of the child would be served thereby award custody or
116 visitation to any other person with a legitimate interest. *A person's legal possession or consumption of*
117 *substances authorized under Title 4.1 or Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 alone shall not serve*
118 *as a basis to restrict custody or visitation unless other facts establish that such possession or consumption is*
119 *not in the best interest of the child.*

120 B1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may,
121 in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."

122 B2. In any case or proceeding in which a grandparent has petitioned the court for visitation with a minor
 123 grandchild, and a natural or adoptive parent of the minor grandchild is deceased or incapacitated, the
 124 grandparent who is related to such deceased or incapacitated parent shall be permitted to introduce evidence
 125 of such parent's consent to visitation with the grandparent, in accordance with the rules of evidence. If the
 126 parent's consent is proven by a preponderance of the evidence, the court may then determine if grandparent
 127 visitation is in the best interest of the minor grandchild. For the purposes of this subsection, "incapacitated
 128 parent" has the same meaning ascribed to the term "incapacitated person" in § 64.2-2000.

129 C. The court may order that support be paid for any child of the parties. Upon request of either party, the
 130 court may order that such support payments be made to a special needs trust or an ABLE savings trust
 131 account as defined in § 23.1-700. The court shall also order that support will continue to be paid for any child
 132 over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the
 133 home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from
 134 high school, whichever first occurs. The court may also order that support be paid or continue to be paid for
 135 any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such
 136 disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of
 137 clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of
 138 the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of
 139 the parties which extends a support obligation beyond when it would otherwise terminate as provided by law.
 140 The court shall have no authority to decree support of children payable by the estate of a deceased party. The
 141 court may make such further decree as it shall deem expedient concerning support of the minor children,
 142 including an order that either party or both parties provide health care coverage or cash medical support, or
 143 both.

144 D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district
 145 court, the court may order an independent mental health or psychological evaluation to assist the court in its
 146 determination of the best interests of the child. The court may enter such order as it deems appropriate for the
 147 payment of the costs of the evaluation by the parties.

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

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

166 If a custody determination affects the school enrollment of the child subject to such custody order and
 167 prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such
 168 custody order to the school at which the child will be enrolled within three business days of such party's
 169 receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall
 170 further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of
 171 such custody or visitation order to the new school at which the child is subsequently enrolled within three
 172 business days of such enrollment.

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

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

178 **2. That the Board of Social Services shall amend its regulations, guidance documents, and other**
 179 **instructional materials to ensure that such regulations, documents, and materials comply with, and**
 180 **that investigations and family assessments are conducted by local departments of social services in**
 181 **accordance with, the provisions of this act.**