

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 20-124.2 of the Code of Virginia, relating to custody and visitation*
 3 *arrangements for minor; custody evaluation; report.*

4 [H 768]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 20-124.2 of the Code of Virginia is amended and reenacted as follows:**8 **§ 20-124.2. Court-ordered custody and visitation arrangements.**

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

18 B. In determining custody, the court shall give primary consideration to the best interests of the child. The
 19 court shall consider and may award joint legal, joint physical, or sole custody, and there shall be no
 20 presumption in favor of any form of custody. The court shall assure minor children of frequent and
 21 continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities
 22 of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of
 23 either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing
 24 by clear and convincing evidence that the best interest of the child would be served thereby award custody or
 25 visitation to any other person with a legitimate interest.

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

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

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

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

54 E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary
 55 to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to
 56 punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent

57 or other person having legal custody of a child may petition the court to enjoin and the court may enter an
58 order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for
59 any period of time up to 10 years if doing so is in the best interests of the child and such parent has been
60 convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state,
61 the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a
62 felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child
63 of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the
64 child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious
65 bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with
66 whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for
67 custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

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

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

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

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

84 **2. That the Board of Psychology (the Board), in consultation with the Board of Medicine, shall convene**
85 **a stakeholder advisory group no later than July 1, 2026, to study and make recommendations to the**
86 **General Assembly regarding the availability of qualified mental health professionals willing to serve as**
87 **court-appointed experts in family law proceedings, including in custody evaluations. The advisory**
88 **group shall include licensed psychologists and psychiatrists who perform custody evaluations,**
89 **representatives of the Virginia State Bar Family Law Section, circuit court judges who preside over**
90 **domestic relations matters, and such other stakeholders as the Board deems appropriate. The advisory**
91 **group shall (i) examine the extent to which licensing board complaints and investigation processes**
92 **deter qualified professionals from accepting court appointments, (ii) review regulatory approaches**
93 **adopted by other states to address this issue, and (iii) assess whether regulatory or statutory action is**
94 **warranted in Virginia to provide appropriate protections for mental health professionals serving as**
95 **court-appointed evaluators while maintaining adequate standards of professional accountability. The**
96 **advisory group shall also develop specific recommendations to increase the number of qualified mental**
97 **health professionals willing to perform court-appointed custody evaluations and provide expert**
98 **testimony in child custody and other domestic relations cases in Virginia's courts, including any**
99 **training, certification, compensation, liability, or regulatory reforms that would expand the pool of**
100 **available evaluators and improve access to expert testimony. The Board shall report its findings and**
101 **recommendations to the Chairs of the Senate Committee for Courts of Justice and the House**
102 **Committee on Health and Human Services no later than November 1, 2026.**