

SENATE BILL NO. 1314

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Dunnavant)

A BILL to amend and reenact §§ 20-49.8 and 63.2-1913 of the Code of Virginia, relating to judgment or child support order for pregnancy and delivery expenses.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 20-49.8 and 63.2-1913 of the Code of Virginia are amended and reenacted as follows:**

**§ 20-49.8. Judgment or order; costs; birth record.**

A. As used in this section, "pregnancy and delivery expenses" means an amount equal to the sum of a pregnant mother's reasonable and necessary medical costs, minus any portion of such sum that a court determines is equitable based on the totality of the circumstances. Any amount paid by either parent may be credited by a court.

B. A judgment or order establishing parentage may include any provision directed against the appropriate party to the proceeding, concerning the duty of support, including an equitable apportionment of the expenses incurred on behalf of the child from the date the proceeding under this chapter was filed with the court against the alleged parent or, if earlier, the date an order of the Department of Social Services entered pursuant to Title 63.2 and directing payment of support was delivered to the sheriff or process server for service upon the obligor. The judgment or order may be in favor of the natural parent or any other person or agency who incurred such expenses provided the complainant exercised due diligence in the service of the respondent. The judgment or order may also include provisions for the custody and guardianship of the child, visitation privileges with the child, or any other matter in the best interest of the child. In circumstances where the parent is outside the jurisdiction of the court, the court may enter a further order requiring the furnishing of bond or other security for the payment required by the judgment or order.  
The In the event that the initial petition for the establishment of parentage is commenced within

27 six months of the live birth of a child, the judgment or order may shall, except for good cause shown or  
28 as otherwise agreed to by the parties, direct either party the legal parent to pay the reasonable and necessary  
29 unpaid expenses, if not already granted or reimbursed by an employer or government program, in  
30 proportion to the parents' gross incomes, as used for calculating the monthly support obligation, pursuant  
31 to § 20-108.2, a share of (i) the mother's pregnancy and delivery or equitably apportion the unpaid  
32 expenses between the parties and (ii) those reasonable expenses incurred by the mother for the benefit of  
33 the child prior to the birth of the child. In addition, the court may award those reasonable expenses incurred  
34 by either legal parent for the benefit of the child prior to the birth of the child. However, when the  
35 Commonwealth, through the Medicaid program or other government program, has paid such expenses,  
36 the court may order reimbursement from the legal parent to the Commonwealth for such expenses.

37 ~~B.~~C. A determination of paternity made by any other state shall be given full faith and credit,  
38 whether established through voluntary acknowledgment or through administrative or judicial process;  
39 provided, however, that, except as may otherwise be required by law, such full faith and credit shall be  
40 given only for the purposes of establishing a duty to make payments of support and other payments  
41 contemplated by subsection ~~A.~~B.

42 ~~C.~~D. For each court determination of parentage made under the provisions of this chapter, a  
43 certified copy of the order or judgment shall be transmitted to the State Registrar of Vital Records by the  
44 clerk of the court within thirty days after the order becomes final. Such order shall set forth the full name  
45 and date and place of birth of the person whose parentage has been determined, the full names of both  
46 parents, including the maiden name, if any, of the mother and the name and address of an informant who  
47 can furnish the information necessary to complete a new birth record. In addition, when the State Registrar  
48 receives a document signed by a man indicating his consent to submit to scientifically reliable genetic  
49 tests, including blood tests, to determine paternity and the genetic test results affirming at least a ninety-  
50 eight percent probability of paternity, a new birth record shall be completed as provided in § 32.1-261.  
51 When the State Registrar receives a copy of a judgment or order for a person born outside of this  
52 Commonwealth, such order shall be forwarded to the appropriate registration authority in the state of birth  
53 or the appropriate federal agency.

54           **§ 63.2-1913. Administrative establishment of paternity.**

55           The Department may establish the parent and child relationship between a child and a man upon  
56 request, verified by oath or affirmation, filed by a child, a parent, a person claiming parentage, a person  
57 standing in loco parentis to the child or having legal custody of the child, or a representative of the  
58 Department or the Department of Juvenile Justice. The request may be filed at any time before the child  
59 attains the age of eighteen years.

60           Pursuant to subsection F of § 63.2-1903, the Department may summons a parent or putative parent  
61 to appear in the office of the Division of Child Support Enforcement to provide such information as may  
62 be necessary to the proceeding.

63           Paternity may be established by a written statement of the father and mother made under oath  
64 acknowledging paternity or scientifically reliable genetic tests, including blood tests, which affirm at least  
65 a ninety-eight percent probability of paternity. The Department may order genetic testing and shall pay  
66 the costs of such tests, subject to recoupment from the father, if paternity is established. Where an original  
67 test is contested and additional testing is requested, the Department may require advance payment by the  
68 contestant.

69           Before a voluntary acknowledgment of paternity is accepted by the Department as the basis for  
70 establishing paternity, the Department shall provide to both the mother and the putative father a written  
71 and oral description of the rights and responsibilities of acknowledging paternity and the consequences  
72 that arise from a signed acknowledgment, including the right to rescind the acknowledgment within the  
73 earlier of (i) sixty days from the date of signing or (ii) the date of entry of an order in an administrative or  
74 judicial proceeding relating to the child in which the signatory is a party.

75           A genetic test result affirming at least a ninety-eight percent probability of paternity shall have the  
76 same legal effect as a judgment entered pursuant to § 20-49.8. When sixty days have elapsed from its  
77 signing, a voluntary statement acknowledging paternity shall have the same legal effect as a judgment  
78 entered pursuant to § 20-49.8 and shall be binding and conclusive unless, in a subsequent judicial  
79 proceeding, the person challenging the statement establishes that the statement resulted from fraud, duress  
80 or a material mistake of fact. In any subsequent proceeding in which a statement acknowledging paternity

81 is subject to challenge, the legal responsibilities of any person signing it shall not be suspended during the  
82 pendency of the proceeding, except for good cause shown.

83 The order of the Department in proceedings pursuant to this section shall be served upon the  
84 putative father in accordance with the provisions of Chapter 8 (§ 8.01-285 et seq.) or Chapter 9 (§ 8.01-  
85 328 et seq.) of Title 8.01. The Department shall file a copy of its order determining paternity, including  
86 the information required by subsection ~~C~~D of § 20-49.8, with the State Registrar of Vital Records within  
87 thirty days after the acknowledgment becomes binding and conclusive or the order otherwise becomes  
88 final. No judicial or administrative proceeding shall be required to ratify an unchallenged acknowledgment  
89 of paternity nor shall the Department or the courts have any jurisdiction over proceedings to ratify an  
90 unchallenged acknowledgment.

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