

HOUSE BILL NO. 2290

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Delegate Brewer)

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 direct either party to pay the reasonable
28 and necessary unpaid expenses of shall, except for good cause shown or as otherwise agreed to by the
29 parties, apportion between the legal parents, in proportion to the legal parents' gross incomes, as used for
30 calculating the monthly child support obligation pursuant to § 20-108.2, (i) the mother's unreimbursed
31 pregnancy and delivery or equitably apportion the unpaid expenses between the parties expenses and (ii)
32 those reasonable expenses incurred by either parent for the benefit of the child prior to the birth of the
33 child. However, when the Commonwealth, through the Medicaid program or other government program,
34 has paid such expenses, the court may order reimbursement to the Commonwealth for such expenses.

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

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

52 **§ 63.2-1913. Administrative establishment of paternity.**

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

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

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

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

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

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

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

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