

HOUSE BILL NO. 1517

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

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

(Patron Prior to Substitute--Delegate Earley)

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.15, relating to adoption tax credit.

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

**1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.15 as follows:**

**§ 58.1-339.15. Adoption tax credit.**

A. As used in this section:

"Adoption expense" means a reasonable and necessary adoption fee, court cost, attorney fee, or other expense that is (i) directly related to, and for the primary purpose of, adoption of a qualifying child through a domestic adoption; (ii) not incurred in violation of federal or state law in carrying out any surrogate parenting arrangement; and (iii) not paid or reimbursed by any employer or state assistance program.

"Domestic adoption" means an adoption of a child who is a United States citizen or a resident of the United States or its possessions before the adoption effort begins.

"Qualifying child" means an individual who is younger than 18 years of age. "Qualifying child" does not include an individual who is a child of the taxpayer's spouse.

"State or federal assistance" means public funds that are (i) expended for the benefit of an individual in need of financial, medical, food, housing, or related assistance; (ii) means tested; and (iii) provided by a state government or the federal government.

B. For taxable years beginning on or after January 1, 2024, but before January 1, 2029, a nonrefundable tax credit against the tax levied pursuant to § 58.1-320 may be claimed by an individual or

27 a married couple filing jointly who finalizes a legal domestic adoption in the taxable year for the amount  
28 of qualified adoption expenses paid or incurred by the individual or married couple. The amount of the  
29 credit shall be equal to the lesser of \$3,500 or the amount of the individual's or married couple's adoption  
30 expenses.

31 C. An individual or married couple filing jointly may claim this credit in addition to a federal tax  
32 credit under 26 U.S.C. § 23; however, an individual or married couple filing jointly shall not claim a credit  
33 under this section to the extent that such taxpayer claims a federal tax credit under 26 U.S.C. § 23 for the  
34 same adoption expense. Such taxpayer shall not have received state or federal assistance during the taxable  
35 year in which the adoption is finalized. The credit provided by this section may only be claimed by one  
36 individual or married couple per adopted child.

37 D. The amount of the credit that may be claimed under this section in any single taxable year shall  
38 not exceed the taxpayer's liability for taxes imposed by this chapter for that taxable year. If the amount of  
39 the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the  
40 costs were incurred, the amount that exceeds the tax liability may be carried over for credit against the  
41 income taxes of the taxpayer in the next three taxable years or until the total amount of the tax credit has  
42 been taken, whichever is sooner.

43 E. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section.  
44 Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et  
45 seq.).

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