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HOUSE BILL NO. 856

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact § 20-124.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 11 of Title 16.1 a section numbered 16.1-229.2 and by adding in Chapter 1 of Title 63.2 a section numbered 63.2-107, relating to child custody, visitation, and placement; best interests of the child.

Patron—Reid

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That § 20-124.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 11 of Title 16.1 a section numbered 16.1-229.2 and by adding in Chapter 1 of Title 63.2 a section numbered 63.2-107 as follows:

§ 16.1-229.2. Best interests of the child.

In determining the best interests of a child, the court shall, as applicable, consider the child's attachment to the parent or guardian.

For the purposes of this section, "attachment" means an aspect of the child's relationship with a parent or guardian that promotes the child's use of the parent or guardian as a secure base from which to explore, learn, and relate and to feel value, security, comfort, familiarity, and continuity.

§ 20-124.3. Best interests of the child; visitation.

A. In determining the best interests of a child for purposes of determining custody or visitation arrangements, including any pendente lite orders pursuant to § 20-103, the court shall consider the following:

1. The age and physical and mental condition of the child, giving due consideration to the child's changing developmental needs;

2. The age and physical and mental condition of each parent;

3. The relationship existing between each parent and each child, giving due consideration to the child's attachment to the parent and the parent's positive involvement with the child's life, ~~the~~ and ability to accurately assess and meet the emotional, intellectual, and physical needs of the child;

4. The needs of the child, giving due consideration to other important relationships of the child, including but not limited to siblings, peers, and extended family members;

5. The role that each parent has played and will play in the future, in the upbringing and care of the child;

6. The propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child;

7. The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes regarding matters affecting the child;

8. The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age, and experience to express such a preference;

9. Any history of (i) family abuse as that term is defined in § 16.1-228; (ii) sexual abuse; (iii) child abuse; or (iv) an act of violence, force, or threat as defined in § 19.2-152.7:1 that occurred no earlier than 10 years prior to the date a petition is filed. If the court finds such a history or act, the court may disregard the factors in subdivision 6; and

10. Such other factors as the court deems necessary and proper to the determination.

B. The judge shall communicate to the parties the basis of the decision either orally or in writing. Except in cases of consent orders for custody and visitation, this communication shall set forth the judge's findings regarding the relevant factors set forth in this section. At the request of either party, the court may order that the exchange of a child shall take place at an appropriate meeting place.

C. *For the purposes of this section, "attachment" means an aspect of the child's relationship with a parent or guardian that promotes the child's use of the parent or guardian as a secure base from which to explore, learn, and relate and to feel value, security, comfort, familiarity, and continuity.*

§ 63.2-107. Best interests of the child.

In determining the best interests of a child, the child's attachment to the parent or guardian shall, as applicable, be considered.

INTRODUCED

HB856

59 *For the purposes of this section, "attachment" means an aspect of the child's relationship with a*
60 *parent or guardian that promotes the child's use of the parent or guardian as a secure base from which*
61 *to explore, learn, and relate and to feel value, security, comfort, familiarity, and continuity.*