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WEST VIRGINIA LEGISLATURE

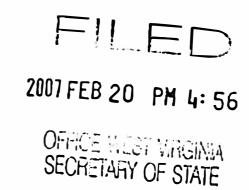
SEVENTY-EIGHTH LEGISLATURE REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 141

(By Senators Kessler, Foster, Green, Hunter, Jenkins, Oliverio, Stollings, Wells, White, Barnes, Caruth, Deem, Hall and McKenzie)

[Passed February 2, 2007; in effect ninety days from passage.]



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[Passed February 2, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §51-2A-2 of the Code of West Virginia, 1931, as amended, relating to family court jurisdiction in sibling visitation proceedings.

Be it enacted by the Legislature of West Virginia:

That §51-2A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2A. FAMILY COURTS.

§51-2A-2. Family court jurisdiction; exceptions; limitations.

- 1 (a) The family court shall exercise jurisdiction over 2 the following matters:
- 3 (1) All actions for divorce, annulment or separate 4 maintenance brought under the provisions of article 5 three, four or five, chapter forty-eight of this code 6 except as provided in subsections (b) and (c) of this 7 section;
- 8 (2) All actions to obtain orders of child support 9 brought under the provisions of articles eleven, twelve 10 and fourteen, chapter forty-eight of this code;
- 11 (3) All actions to establish paternity brought under the 12 provisions of article twenty-four, chapter forty-eight of 13 this code and any dependent claims related to such 14 actions regarding child support, parenting plans or 15 other allocation of custodial responsibility or decision-16 making responsibility for a child;
- 17 (4) All actions for grandparent visitation brought 18 under the provisions of article ten, chapter forty-eight 19 of this code;
- (5) All actions for the interstate enforcement of family support brought under article sixteen, chapter fortyeight of this code and for the interstate enforcement of child custody brought under the provisions of article twenty of said chapter;
- 25 (6) All actions for the establishment of a parenting 26 plan or other allocation of custodial responsibility or 27 decision-making responsibility for a child, including 28 actions brought under the Uniform Child Custody 29 Jurisdiction and Enforcement Act, as provided in article 30 twenty, chapter forty-eight of this code;

- 31 (7) All petitions for writs of habeas corpus wherein the
- 32 issue contested is custodial responsibility for a child;
- 33 (8) All motions for temporary relief affecting
- 34 parenting plans or other allocation of custodial
- 35 responsibility or decision-making responsibility for a
- 36 child, child support, spousal support or domestic
- 37 violence:
- 38 (9) All motions for modification of an order providing
- 39 for a parenting plan or other allocation of custodial
- 40 responsibility or decision-making responsibility for a
- 41 child or for child support or spousal support;
- 42 (10) All actions brought, including civil contempt
- 43 proceedings, to enforce an order of spousal or child
- 44 support or to enforce an order for a parenting plan or
- 45 other allocation of custodial responsibility or decision-
- 46 making responsibility for a child;
- 47 (11) All actions brought by an obligor to contest the
- 48 enforcement of an order of support through the
- 49 withholding from income of amounts payable as
- 50 support or to contest an affidavit of accrued support,
- 51 filed with the circuit clerk, which seeks to collect an
- 52 arrearage;
- 53 (12) All final hearings in domestic violence
- 54 proceedings;
- 55 (13) Petitions for a change of name, exercising
- 56 concurrent jurisdiction with the circuit court;
- 57 (14) All proceedings for payment of attorney fees if the
- 58 family court judge has jurisdiction of the underlying
- 59 action:

- 60 (15) All proceedings for property distribution brought
- 61 under article seven, chapter forty-eight of this code;
- 62 (16) All proceedings to obtain spousal support brought
- 63 under article eight, chapter forty-eight of this code;
- 64 (17) All proceedings relating to the appointment of
- 65 guardians or curators of minor children brought
- 66 pursuant to sections three, four and six, article ten,
- 67 chapter forty-four of this code, exercising concurrent
- 68 jurisdiction with the circuit court; and
- 69 (18) All proceedings relating to petitions for sibling
- 70 visitation.
- 71 (b) If an action for divorce, annulment or separate
- 72 maintenance does not require the establishment of a
- 73 parenting plan or other allocation of custodial
- 74 responsibility or decision-making responsibility for a
- 75 child and does not require an award or any payment of
- 76 child support, the circuit court has concurrent
- 77 jurisdiction with the family court over the action if, at
- 78 the time of the filing of the action, the parties also file
- 79 a written property settlement agreement executed by
- 80 both parties.
- 81 (c) If an action for divorce, annulment or separate
- 82 maintenance is pending and a petition is filed pursuant
- 83 to the provisions of article six, chapter forty-nine of this
- 84 code alleging abuse or neglect of a child by either of the
- 85 parties to the divorce, annulment or separate
- 86 maintenance action, the orders of the circuit court in
- 87 which the abuse or neglect petition is filed shall
- 88 supercede and take precedence over an order of the
- 89 family court respecting the allocation of custodial and
- 90 decision-making responsibility for the child between

the parents. If no order for the allocation of custodial and decision-making responsibility for the child between the parents has been entered by the family court in the pending action for divorce, annulment or separate maintenance, the family court shall stay any further proceedings concerning the allocation of custodial and decision-making responsibility for the child between the parents and defer to the orders of the circuit court in the abuse or neglect proceedings.

(d) A family court is a court of limited jurisdiction. A family court is a court of record only for the purpose of exercising jurisdiction in the matters for which the jurisdiction of the family court is specifically authorized in this section and in chapter forty-eight of this code. A family court may not exercise the powers given courts of record in section one, article five, chapter fifty-one of this code or exercise any other, powers provided for courts of record in this code unless specifically authorized by the Legislature. A family court judge is not a "judge of any court of record" or a "judge of a court of record" as the terms are defined and used in article nine of this chapter.

The Joint Committee on Enrolled Bills hereby certifies that

the foregoing bill is correctly enrolled.
Chairman Senate Committee
Jbyls
Chairman House Committee
Originated in the Senate.
In effect ninety days from passage.
Clerk of the Senate
Clerk of the House of Delegates
President of the Senate
Speaker House of Delegates
The within 10 approved this
The within is approved this the 20 Day of Jubruary 2007.
Governor

PRESENTED TO THE GOVERNOR

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