

SB 141

FILED

2007 FEB 20 PM 4: 56

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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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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;

20 (5) All actions for the interstate enforcement of family
21 support brought under article sixteen, chapter forty-
22 eight of this code and for the interstate enforcement of
23 child custody brought under the provisions of article
24 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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Clay White
.....
Chairman Senate Committee

John
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell Elford
.....
Clerk of the Senate

Steve L. Smith
.....
Clerk of the House of Delegates

Carl Ray Tomlin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved*..... this
the *20* Day of *February*....., 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

FEB 16 2007

Time 9:30 am