

2016 General Assembly Recap

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No man's life, liberty or property is safe while the legislature is in session.

— Mark Twain

Once again, we have managed to survive the dire, but true prediction that Twain made well over 100 years ago. The 2016 Virginia General Assembly has adjourned *sine die* (i.e., without assigning a day for a further meeting or hearing). As this was an even-numbered year, the Assembly had a “long” session adjourning the second week of March. Unlike other years, there were quite a few bills before the Assembly which impact our practice in family law.

The following Bills all passed both houses and have either been signed or are still waiting action by the Governor. There were several bills supported and proposed the Boyd-Graves Conference as well as the VBA Family Law Coalition. First and foremost was Senate Bill 70 which provides that any award or order made by a court pending a suit for divorce, shall be paid from post-separation income unless the court, for good cause, orders otherwise. This was, in effect, a “fix” to the decision made by the Virginia Court of Appeals recently in *Wright v. Wright*.

Senate Bill 71 was also a “fix” for the *Wroblewski v. Wroblewski* case which was recently decided. This statute provides that the court may still decree as to maintenance and support of a spouse even where a party fails to prove his grounds for divorce provided a claim for support has been properly plead by the party seeking support.

House Bill 668 amends §20-107.1 to provide that the Court may examine all the factors which led to the dissolution of the marriage when deciding the amount and duration of the spousal support award. The final version of this Bill was a compromise in that the original version provided for a complete prohibition of spousal support for anyone who is convicted of domestic violence.

House Bill 404 amends §20-107.3 to give the

Court authority to transfer a party's separate property held by the other party to that party. Currently, there is no provision of the law that allows the Court to order the direct transfer of personal property from one spouse to the other and this rectifies that omission.

House Bill 497 sponsored by the Boyd-Graves Conference, provides that the Commonwealth has exclusive and continuing jurisdiction to modify a child custody order that is subject to UCCJEA so long as a parent of the child continues to live in the Commonwealth. This was a bill to put Virginia's version of the UCCJEA in compliance with the version followed by most states.

House Bill 600 imposes mandates to children in foster care which includes requirements that certain information options be given to a child in connection with foster care plans. Additionally, the bill added to the definition of abused or neglected child any child who has been identified as a victim of sex trafficking as defined by federal law.

House Bill 711 provides that any person who receives a Protective Order and, pursuant to that Protective Order, obtains exclusive use and possession of a dwelling unit, but is not the tenant or authorized occupant may submit a rental application to become a tenant within 10 days of entry of such an Order.

Senate Bill 417 was passed in response to a recent LEO from the Virginia State Bar regarding non-attorney employees of the Department of Social Services filing Petitions in juvenile court. This bill allows social workers and other employees of the Department of Social Services to file appropriate Petitions though they are not licensed to practice law in Virginia. This basically extends permission given to DCSE to file such Petitions to DSS in foster care and social services cases.

House Bill 642 provides that either party may submit the required depositions or affidavits in support of the grounds of divorce. This was also recom-

mended by the Boyd-Graves Conference and now allows a defendant in a divorce case to present such affidavits, if necessary.

House Bill 703 changes the legal age of marriage from 16, under certain circumstances, to 18, unless someone between the ages of 16 and 18 has been legally emancipated by the court. It also provides that the court must make findings that there is no force or coercion involved in the marriage. If such emancipation is not granted prior to the marriage, that marriage is deemed voidable.

As in every other year, there were a series of bills that failed, or in the tradition of the Virginia General Assembly were “gently laid on the table.” Once again, there were bills to reinstate single petitions in Juvenile and Domestic Relations Court rather than multiple petitions for custody and visitation issues. There was a bill, once again, to decriminalize adultery and make it merely a civil penalty, thus

ending an adulterer’s right to protection pursuant to the Fifth Amendment. Additionally, there was a bill that would change the phrase visitation to “parenting time” in all statutes. This bill was carried over to the 2017 session to allow for a report on the impacts of that change which would be due November 1, 2016 on a study commission.

Additionally, House Bill 42 would have created a rebuttable presumption on the length of spousal support to one-half the length of the marriage.

All in all, the 2016 General Assembly Session was a success regarding family law issues. The members of the Boyd-Graves Conference, the VBA Family Law Coalition, the American Academy of Matrimonial Lawyers, and the VTLA all contributed their time, knowledge and efforts in continuing to advocate on behalf of improving the state of the family law in Virginia. ❖



The Betty A. Thompson Lifetime Achievement Award Description

The Betty A. Thompson Lifetime Achievement Award

was established by the Virginia State Bar Family Law Section to recognize and honor an individual who has made a substantial contribution to the practice and administration of family law in the Commonwealth of Virginia. The award will be given at the discretion of the VSB Family Law Section Board of Governors. The Betty A. Thompson Lifetime Achievement Award is presented at the Annual Family Law Seminar in April at The Jefferson Hotel in Richmond, Virginia. We are pleased to announce the 2016 winner is Carl J. Witmeyer, II of The Witmeyer Law Firm in Ashland. ❖

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If you would like to submit an article for publication, please email it to Brian Hirsch at BHirsch@NOVAFamilyLaw.com. Most articles are between 1,000 and 2,000 words, but this should not limit you in submitting a shorter or longer article. Deadlines for submissions are

February 21, May 21, August 21
and November 21.



Virginia State Bar