

DRAFT “VIRTUAL VISITATION” BILL

Amends the Chapter 48 Domestic Relations of the West Virginia Family Code:

A BILL to amend and reenact §49-2 of the Code of West Virginia, as amended, relating to the definitions relating to Virtual Visitation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. DIVORCE, ANNULMENT AND SEPARATE MAINTENANCE.

48-2-1. Definitions

SECTION 1. G.S. 48-2-1 is amended by adding the following new subdivision to read:

(23) "Visitation", means in-person time spent between a child and their parent including any Electronic Communication;

(24) "Electronic communication" means time during which a parent and his or her child communicate by using communication tools such as the telephone, electronic mail, instant messaging, video conferencing or other wired or wireless technologies via the Internet, or another medium of communication.

§48-2-4. Grounds for divorce.

SECTION 2. G.S. 48-2-4 is amended by adding the following new subdivision to read:

(c) The court may grant a reasonable amount of Electronic Communication at reasonable hours to either or both parents when the child is not in the parent's physical custody if the equipment is reasonably available. If the parties cannot agree on whether the equipment is reasonably available, the court shall decide the reasonableness of its availability

(d) Electronic Communication with the child may be used only to supplement a parent's periods of visitation with the child. Electronic Communication may not be used as a replacement or as a substitute for custody or a parent's periods of visitation with the child.

SECTION 3. G.S. 48-2-16 is amended by adding the following new subdivision to read:

(21) The amount of time Electronic Communication is used shall not be a factor in the calculation of Child Support.

SECTION 4. G.S. 48-2A-7 is amended to read:

(b)(5) Order the perpetrator of domestic or family violence to pay the costs of supervised visitation or any electronic communication, if any;

SECTION 5. G.S. 48-2B-8 is amended to read:

(b) In the court's discretion, an order granting visitation privileges to a grandparent may require supervised visitation or any electronic communication or may place such conditions upon visitation that it finds are in the best interests of the child, including, but not limited to, the following

SECTION 6. G.S. 48-2B-9 is amended to read:

(a) The remarriage of the custodial parent of a child does not affect the authority of a circuit court to grant reasonable visitation and any electronic communication to any grandparent

SECTION 7. G.S. 48-11-403 is amended by adding the following new subdivision to read:

(g) The court may not use the availability of Electronic Communication as a factor to justify or in support of a relocation by the custodial parent out of the immediate area or state.

SECTION 8. G.S. 48-27-509 is amended by adding the following new subdivision to read:

(b)(5) Order the perpetrator of domestic violence to pay the costs of supervised visitation or any electronic communication, if any;