

HOUSE BILL 848

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CF SB 327

By: **Delegates McComas, Chisholm, Ciliberti, Crutchfield, Schmidt, Williams, and Wivell**

Introduced and read first time: February 2, 2024

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 2, 2024

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Child Custody – Determinations**

3 FOR the purpose of authorizing the court, in determining legal and physical custody in
4 certain child custody proceedings, to consider certain factors; authorizing the court
5 to modify a child custody or visitation order under certain circumstances; and
6 generally relating to child custody and visitation.

7 BY repealing and reenacting, without amendments,
8 Article – Family Law
9 Section 9–101, 9–101.1, and 9–101.2
10 Annotated Code of Maryland
11 (2019 Replacement Volume and 2023 Supplement)

12 BY adding to
13 Article – Family Law
14 Section 9–201 and 9–202 to be under the new subtitle “Subtitle 2. Legal and Physical
15 Custody – Judicial Determinations”
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2023 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Family Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 9–101.

2 (a) In any custody or visitation proceeding, if the court has reasonable grounds to
3 believe that a child has been abused or neglected by a party to the proceeding, the court
4 shall determine whether abuse or neglect is likely to occur if custody or visitation rights
5 are granted to the party.

6 (b) Unless the court specifically finds that there is no likelihood of further child
7 abuse or neglect by the party, the court shall deny custody or visitation rights to that party,
8 except that the court may approve a supervised visitation arrangement that assures the
9 safety and the physiological, psychological, and emotional well-being of the child.

10 9–101.1.

11 (a) In this section, “abuse” has the meaning stated in § 4–501 of this article.

12 (b) In a custody or visitation proceeding, the court shall consider, when deciding
13 custody or visitation issues, evidence of abuse by a party against:

14 (1) the other parent of the party’s child;

15 (2) the party’s spouse; or

16 (3) any child residing within the party’s household, including a child other
17 than the child who is the subject of the custody or visitation proceeding.

18 (c) If the court finds that a party has committed abuse against the other parent
19 of the party’s child, the party’s spouse, or any child residing within the party’s household,
20 the court shall make arrangements for custody or visitation that best protect:

21 (1) the child who is the subject of the proceeding; and

22 (2) the victim of the abuse.

23 9–101.2.

24 (a) Except as provided in subsection (b) of this section, unless good cause for the
25 award of custody or visitation is shown by clear and convincing evidence, a court may not
26 award custody of a child or visitation with a child:

27 (1) to a parent who has been found by a court of this State to be guilty of
28 first degree or second degree murder of the other parent of the child, another child of the
29 parent, or any family member residing in the household of either parent of the child; or

30 (2) to a parent who has been found by a court of any state or of the United
31 States to be guilty of a crime that, if committed in this State, would be first degree murder

1 or second degree murder of the other parent of the child, another child of the parent, or any
2 family member residing in the household of either parent of the child.

3 (b) If it is in the best interest of the child, the court may approve a supervised
4 visitation arrangement that assures the safety and the physiological, psychological, and
5 emotional well-being of the child.

6 **SUBTITLE 2. LEGAL AND PHYSICAL CUSTODY – JUDICIAL DETERMINATIONS.**

7 **9–201.**

8 (A) SUBJECT TO THE PROVISIONS OF §§ 9–101, 9–101.1, AND 9–101.2 OF
9 THIS TITLE, IN DETERMINING WHAT LEGAL CUSTODY AND PHYSICAL CUSTODY IS IN
10 THE BEST INTEREST OF A CHILD, THE COURT MAY CONSIDER THE FOLLOWING
11 FACTORS:

12 (1) STABILITY AND THE FORESEEABLE HEALTH AND WELFARE OF THE
13 CHILD;

14 (2) FREQUENT, REGULAR, AND CONTINUING CONTACT WITH PARENTS
15 WHO CAN ACT IN THE CHILD’S BEST INTEREST;

16 (3) WHETHER AND HOW PARENTS WHO DO NOT LIVE TOGETHER WILL
17 SHARE THE RIGHTS AND RESPONSIBILITIES OF RAISING THE CHILD;

18 (4) THE CHILD’S RELATIONSHIP WITH EACH PARENT, ANY SIBLINGS,
19 OTHER RELATIVES, AND INDIVIDUALS WHO ARE OR MAY BECOME IMPORTANT IN THE
20 CHILD’S LIFE;

21 (5) THE CHILD’S PHYSICAL AND EMOTIONAL SECURITY AND
22 PROTECTION FROM EXPOSURE TO CONFLICT AND VIOLENCE;

23 (6) THE CHILD’S DEVELOPMENTAL NEEDS, INCLUDING PHYSICAL
24 SAFETY, EMOTIONAL SECURITY, POSITIVE SELF-IMAGE, INTERPERSONAL SKILLS,
25 AND INTELLECTUAL AND COGNITIVE GROWTH;

26 (7) THE DAY-TO-DAY NEEDS OF THE CHILD, INCLUDING EDUCATION,
27 SOCIALIZATION, CULTURE AND RELIGION, FOOD, SHELTER, CLOTHING, AND
28 MENTAL AND PHYSICAL HEALTH;

29 (8) HOW TO:

30 (I) PLACE THE CHILD’S NEEDS ABOVE THE PARENTS’ NEEDS;

31 (II) PROTECT THE CHILD FROM THE NEGATIVE EFFECTS OF ANY

1 CONFLICT BETWEEN THE PARENTS; AND

2 (III) MAINTAIN THE CHILD'S RELATIONSHIP WITH THE PARENTS,
3 SIBLINGS, OTHER RELATIVES, OR OTHER INDIVIDUALS WHO HAVE OR LIKELY MAY
4 HAVE A SIGNIFICANT RELATIONSHIP WITH THE CHILD;

5 (9) THE AGE OF THE CHILD;

6 (10) ANY MILITARY DEPLOYMENT OF A PARENT AND ITS EFFECT, IF
7 ANY, ON THE PARENT-CHILD RELATIONSHIP;

8 (11) ANY PRIOR COURT ORDERS OR AGREEMENTS;

9 (12) EACH PARENT'S ROLE AND TASKS RELATED TO THE CHILD AND
10 HOW, IF AT ALL, THOSE ROLES AND TASKS HAVE CHANGED;

11 (13) THE LOCATION OF EACH PARENT'S HOME AS IT RELATES TO THE
12 PARENT'S ABILITY TO COORDINATE PARENTING TIME, SCHOOL, AND ACTIVITIES;

13 (14) THE PARENTS' RELATIONSHIP WITH EACH OTHER, INCLUDING:

14 (I) HOW THEY COMMUNICATE WITH EACH OTHER;

15 (II) WHETHER THEY CAN CO-PARENT WITHOUT DISRUPTING
16 THE CHILD'S SOCIAL AND SCHOOL LIFE; AND

17 (III) HOW THE PARENTS WILL RESOLVE ANY DISPUTES IN THE
18 FUTURE WITHOUT THE NEED FOR COURT INTERVENTION;

19 (15) THE CHILD'S PREFERENCE, IF AGE-APPROPRIATE; AND

20 (16) ANY OTHER FACTOR THAT THE COURT CONSIDERS APPROPRIATE
21 IN DETERMINING HOW BEST TO SERVE THE PHYSICAL, DEVELOPMENTAL, AND
22 EMOTIONAL NEEDS OF THE CHILD.

23 (B) THE COURT SHALL ARTICULATE ITS FINDINGS OF FACT ON THE RECORD
24 OR IN A WRITTEN OPINION, INCLUDING THE CONSIDERATION OF EACH FACTOR
25 LISTED IN SUBSECTION (A) OF THIS SECTION AND ANY OTHER FACTOR THAT THE
26 COURT CONSIDERED.

27 9-202.

28 (A) THE COURT MAY MODIFY, IN ACCORDANCE WITH THE PROVISIONS OF
29 THIS SUBTITLE, A CHILD CUSTODY OR VISITATION ORDER IF THE COURT

1 DETERMINES THAT THERE HAS BEEN A MATERIAL CHANGE IN CIRCUMSTANCES
2 SINCE THE ISSUANCE OF THE ORDER THAT RELATES TO THE NEEDS OF THE CHILD
3 OR THE ABILITY OF THE PARENTS TO MEET THOSE NEEDS AND THAT MODIFYING THE
4 ORDER IS IN THE BEST INTEREST OF THE CHILD.

5 (B) A PARENT'S PROPOSAL TO RELOCATE THE RESIDENCE OF THE PARENT
6 OR THE CHILD IN A WAY THAT WOULD CAUSE PHYSICAL CUSTODY TO BE
7 IMPRACTICABLE CONSTITUTES A MATERIAL CHANGE IN CIRCUMSTANCES.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.