

HOUSE BILL 79

D4

(PRE-FILED)

4lr1380
CF 4lr1379

By: **Delegate Williams**

Requested: November 1, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

A BILL ENTITLED

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**

21 9–101.

22 (a) In any custody or visitation proceeding, if the court has reasonable grounds to
23 believe that a child has been abused or neglected by a party to the proceeding, the court
24 shall determine whether abuse or neglect is likely to occur if custody or visitation rights

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 are granted to the party.

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

6 9–101.1.

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

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

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

11 (2) the party’s spouse; or

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

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

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

18 (2) the victim of the abuse.

19 9–101.2.

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

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

26 (2) to a parent who has been found by a court of any state or of the United
27 States to be guilty of a crime that, if committed in this State, would be first degree murder
28 or second degree murder of the other parent of the child, another child of the parent, or any
29 family member residing in the household of either parent of the child.

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

SUBTITLE 2. LEGAL AND PHYSICAL CUSTODY – JUDICIAL DETERMINATIONS.

9–201.

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

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

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

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

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

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

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

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

(8) HOW TO:

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

(II) PROTECT THE CHILD FROM THE NEGATIVE EFFECTS OF ANY CONFLICT BETWEEN THE PARENTS; AND

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

1 **(9) THE AGE OF THE CHILD;**

2 **(10) ANY MILITARY DEPLOYMENT OF A PARENT AND ITS EFFECT, IF**
3 **ANY, ON THE PARENT–CHILD RELATIONSHIP;**

4 **(11) ANY PRIOR COURT ORDERS OR AGREEMENTS;**

5 **(12) EACH PARENT’S ROLE AND TASKS RELATED TO THE CHILD AND**
6 **HOW, IF AT ALL, THOSE ROLES AND TASKS HAVE CHANGED;**

7 **(13) THE LOCATION OF EACH PARENT’S HOME AS IT RELATES TO THE**
8 **PARENT’S ABILITY TO COORDINATE PARENTING TIME, SCHOOL, AND ACTIVITIES;**

9 **(14) THE PARENTS’ RELATIONSHIP WITH EACH OTHER, INCLUDING:**

10 **(I) HOW THEY COMMUNICATE WITH EACH OTHER;**

11 **(II) WHETHER THEY CAN CO–PARENT WITHOUT DISRUPTING**
12 **THE CHILD’S SOCIAL AND SCHOOL LIFE; AND**

13 **(III) HOW THE PARENTS WILL RESOLVE ANY DISPUTES IN THE**
14 **FUTURE WITHOUT THE NEED FOR COURT INTERVENTION;**

15 **(15) THE CHILD’S PREFERENCE, IF AGE–APPROPRIATE; AND**

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

19 **(B) THE COURT SHALL ARTICULATE ITS FINDINGS OF FACT ON THE RECORD**
20 **OR IN A WRITTEN OPINION, INCLUDING THE CONSIDERATION OF EACH FACTOR**
21 **LISTED IN SUBSECTION (A) OF THIS SECTION AND ANY OTHER FACTOR THAT THE**
22 **COURT CONSIDERED.**

23 **9–202.**

24 **(A) THE COURT MAY MODIFY, IN ACCORDANCE WITH THE PROVISIONS OF**
25 **THIS SUBTITLE, A CHILD CUSTODY OR VISITATION ORDER IF THE COURT**
26 **DETERMINES THAT THERE HAS BEEN A MATERIAL CHANGE IN CIRCUMSTANCES**
27 **SINCE THE ISSUANCE OF THE ORDER THAT RELATES TO THE NEEDS OF THE CHILD**
28 **OR THE ABILITY OF THE PARENTS TO MEET THOSE NEEDS AND THAT MODIFYING THE**
29 **ORDER IS IN THE BEST INTEREST OF THE CHILD.**

1 **(B) A PARENT’S PROPOSAL TO RELOCATE THE RESIDENCE OF THE PARENT**
2 **OR THE CHILD IN A WAY THAT WOULD CAUSE PHYSICAL CUSTODY TO BE**
3 **IMPRACTICABLE CONSTITUTES A MATERIAL CHANGE IN CIRCUMSTANCES.**

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