
By: **Delegate O'Donnell**
Introduced and read first time: February 13, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Children - Joint Legal Custody and Equal Parenting Time - Preference**

3 FOR the purpose of requiring a court in certain child custody proceedings to first
4 consider an award of joint legal custody and physical custody for approximately
5 equal periods of time for each parent; authorizing the court that does not find
6 that award appropriate to order a disposition it finds appropriate for the
7 circumstances; requiring a court to make a certain written finding or specific
8 finding on the record if the court does not award joint legal custody and physical
9 custody for approximately equal periods of time for each parent; providing that
10 this Act does not preclude the court's consideration of other provisions of the law,
11 including provisions providing protection from domestic violence; providing for
12 the application of this Act; and generally relating to child custody.

13 BY adding to
14 Article - Family Law
15 Section 9-107
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2003 Supplement)

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

20 **Article - Family Law**

21 9-107.

22 (A) (1) IN AN INITIAL CHILD CUSTODY PROCEEDING, WHETHER PENDENTE
23 LITE OR PERMANENT, INVOLVING THE PARENTS OF A CHILD, THE COURT SHALL
24 FIRST CONSIDER AN ORDER THAT AWARDS:

25 (I) JOINT LEGAL CUSTODY OF THE CHILD TO THE PARENTS; AND

26 (II) PHYSICAL CUSTODY OF THE CHILD FOR APPROXIMATELY
27 EQUAL PERIODS OF TIME FOR EACH PARENT.

1 (2) IF THE COURT DOES NOT CONSIDER THE OPTION IN PARAGRAPH (1)
2 OF THIS SUBSECTION APPROPRIATE, THE COURT SHALL ORDER A DISPOSITION IT
3 FINDS APPROPRIATE FOR THE CIRCUMSTANCES.

4 (B) IF THE COURT DOES NOT AWARD JOINT LEGAL CUSTODY AND PHYSICAL
5 CUSTODY OF THE CHILD FOR APPROXIMATELY EQUAL PERIODS OF TIME FOR EACH
6 PARENT, THE COURT SHALL MAKE A WRITTEN FINDING WITHIN 10 DAYS OF THE
7 COURT'S ORDER OR MAKE A SPECIFIC FINDING ON THE RECORD ON:

8 (1) THE REASONS THE COURT DID NOT AWARD JOINT LEGAL CUSTODY
9 AND PHYSICAL CUSTODY OF THE CHILD FOR APPROXIMATELY EQUAL PERIODS OF
10 TIME FOR EACH PARENT; AND

11 (2) HOW THE FINDING SERVES THE BEST INTERESTS OF THE CHILD.

12 (C) NOTHING IN THIS SECTION PRECLUDES CONSIDERATION BY THE COURT
13 OF OTHER PROVISIONS OF THE LAW, INCLUDING PROVISIONS PROVIDING
14 PROTECTION FROM DOMESTIC VIOLENCE.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
16 construed to apply only prospectively and may not be applied or interpreted to have
17 any effect on or application to any cases filed before the effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2004.