

# SENATE BILL 679

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CF HB 648

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By: **Senators Raskin, Forehand, Jacobs, Kittleman, Lenett, Madaleno, McFadden, Peters, Robey, ~~and Simonaire~~ Simonaire, Brochin, Haines, Mooney, and Stone**

Introduced and read first time: February 2, 2007  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 16, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Family Law – Denial of Paternity, Custody, and Visitation**

3 FOR the purpose of excluding as a father of a child a man who has committed a  
4 certain sexual crime against the child’s mother for purposes of certain  
5 provisions relating to guardianship and adoption of a child under certain  
6 circumstances; authorizing the court to order a man to provide financial support  
7 to a child under certain circumstances; prohibiting a court from awarding  
8 custody or visitation of a child to a parent who has committed a certain sexual  
9 crime against the other parent under certain circumstances; requiring the court  
10 to consider the safety and well-being of the child’s other parent or guardian in  
11 approving supervised visitation; making a conforming change; and generally  
12 relating to paternity, custody, and visitation.

13 BY repealing and reenacting, with amendments,  
14 Article – Family Law  
15 Section 5–306, 5–318(a)(1), 5–3A–06, 5–3B–05, and 9–101.2  
16 Annotated Code of Maryland  
17 (2006 Replacement Volume)

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

3 **Article – Family Law**

4 5–306.

5 (a) Unless a court excludes a man as the father of a child, a man is the father  
6 if:

7 (1) the man was married to the child’s mother at the time of the child’s  
8 conception;

9 (2) the man was married to the child’s mother at the time of the child’s  
10 birth;

11 (3) the man is named as the father on the child’s birth certificate and  
12 has not signed a denial of paternity;

13 (4) the child’s mother has named the man as the child’s father and the  
14 man has not signed a denial of paternity;

15 (5) the man has been adjudicated to be the child’s father;

16 (6) the man has acknowledged himself, orally or in writing, to be the  
17 child’s father and the mother agrees; or

18 (7) on the basis of genetic testing, the man is indicated to be the child’s  
19 biological father.

20 **(B) ON MOTION OF THE CHILD’S MOTHER, AND AFTER NOTICE AND A**  
21 **HEARING, A COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE**  
22 **COURT:**

23 **(1) FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

24 **(I) THE MAN HAS COMMITTED AN ACT PROHIBITED BY §**  
25 **3–303, § 3–304(A)(1) OR (2), § 3–323, OR § 3–602 OF THE CRIMINAL LAW**  
26 **ARTICLE AGAINST THE CHILD’S MOTHER OR HAS COMMITTED AN ACT IN**  
27 **ANOTHER JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD**  
28 **CONSTITUTE THAT ACT; AND**

1                   **(II) THE CHILD WAS CONCEIVED ~~AT THE TIME~~ AS A RESULT**  
2 **OF THE ACT; AND**

3                   **(2) FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT IT IS IN**  
4 **THE BEST INTERESTS OF THE CHILD FOR THE MAN TO BE EXCLUDED AS THE**  
5 **CHILD'S FATHER.**

6                   **(C) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD UNDER**  
7 **SUBSECTION (B) OF THIS SECTION, THE COURT MAY ORDER THE MAN TO**  
8 **PROVIDE FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10**  
9 **OF THIS ARTICLE OR OTHERWISE.**

10           **[(b)] (D) (1)** A petitioner under Part II or Part III of this subtitle shall  
11 give a juvenile court notice that a man who is not named in the petition and has not  
12 been excluded as a father claims paternity.

13                   (2) After a request of a party or claimant and before ruling on a  
14 petition under Part II or Part III of this subtitle, a juvenile court shall hold a hearing  
15 on the issue of paternity.

16 5-318.

17           (a) (1) In addition to any hearing required under this subsection or [§  
18 5-306(b)(2)] **§ 5-306(D)(2)** of this subtitle, a juvenile court may hold a hearing before  
19 entering a guardianship order under § 5-320(a)(1) of this subtitle or otherwise ruling  
20 on a guardianship petition.

21 5-3A-06.

22           (a) Unless a court excludes a man as the father of a child, a man is the father  
23 if:

24                   (1) the man was married to the child's mother at the time of the child's  
25 conception;

26                   (2) the man was married to the child's mother at the time of the child's  
27 birth;

28                   (3) the man is named as the father on the child's birth certificate and  
29 has not signed a denial of paternity;

1           (4)    the child's mother has named the man as the child's father and the  
2 man has not signed a denial of paternity;

3           (5)    the man has been adjudicated to be the child's father;

4           (6)    the man has acknowledged himself, orally or in writing, to be the  
5 child's father and the mother agrees; or

6           (7)    on the basis of genetic testing, the man is indicated to be the child's  
7 biological father.

8           **(B)    ON MOTION OF THE CHILD'S MOTHER, AND AFTER NOTICE AND A**  
9 **HEARING, A COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE**  
10 **COURT:**

11           **(1)    FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

12                   **(I)    THE MAN HAS COMMITTED AN ACT PROHIBITED BY §**  
13 **3-303, § 3-304(A)(1) OR (2), § 3-323, OR § 3-602 OF THE CRIMINAL LAW**  
14 **ARTICLE AGAINST THE CHILD'S MOTHER OR HAS COMMITTED AN ACT IN**  
15 **ANOTHER JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD**  
16 **CONSTITUTE THAT ACT; AND**

17                   **(II)   THE CHILD WAS CONCEIVED ~~AT THE TIME~~ AS A RESULT**  
18 **OF THE ACT; AND**

19           **(2)    FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT IT IS IN**  
20 **THE BEST INTERESTS OF THE CHILD FOR THE MAN TO BE EXCLUDED AS THE**  
21 **CHILD'S FATHER.**

22           **(C)    IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD UNDER**  
23 **SUBSECTION (B) OF THIS SECTION, THE COURT MAY ORDER THE MAN TO**  
24 **PROVIDE FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10**  
25 **OF THIS ARTICLE OR OTHERWISE.**

26           **[(b)] (D)   (1)    A petitioner under this subtitle shall give a court notice that**  
27 **a man who is not named in the petition and has not been excluded as a father claims**  
28 **paternity.**

1           (2) After a request of a party or claimant and before ruling on a  
2 petition for guardianship or adoption under this subtitle, a court shall hold a hearing  
3 on the issue of paternity.

4 5-3B-05.

5           (a) Unless a court excludes a man as the father of a child, a man is the father  
6 if:

7           (1) the man was married to the child's mother at the time of the child's  
8 conception;

9           (2) the man was married to the child's mother at the time of the child's  
10 birth;

11           (3) the man is named as the father on the child's birth certificate and  
12 has not signed a denial of paternity;

13           (4) the child's mother has named the man as the child's father and the  
14 man has not signed a denial of paternity;

15           (5) the man has been adjudicated to be the child's father;

16           (6) the man has acknowledged himself, orally or in writing, to be the  
17 child's father and the mother agrees; or

18           (7) on the basis of genetic testing, the man is indicated to be the child's  
19 biological father.

20           **(B) ON MOTION OF THE CHILD'S MOTHER, AND AFTER NOTICE AND A**  
21 **HEARING, A COURT SHALL EXCLUDE A MAN AS THE FATHER OF A CHILD IF THE**  
22 **COURT:**

23           **(1) FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:**

24           **(I) THE MAN HAS COMMITTED AN ACT PROHIBITED BY §**  
25 **3-303, § 3-304(A)(1) OR (2), § 3-323, OR § 3-602 OF THE CRIMINAL LAW**  
26 **ARTICLE AGAINST THE CHILD'S MOTHER OR HAS COMMITTED AN ACT IN**  
27 **ANOTHER JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD**  
28 **CONSTITUTE THAT ACT; AND**

1                   **(II) THE CHILD WAS CONCEIVED ~~AT THE TIME~~ AS A RESULT**  
2 **OF THE ACT; AND**

3                   **(2) FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT IT IS IN**  
4 **THE BEST INTERESTS OF THE CHILD FOR THE MAN TO BE EXCLUDED AS THE**  
5 **CHILD'S FATHER.**

6                   **(C) IF THE COURT EXCLUDES A MAN AS A FATHER OF A CHILD UNDER**  
7 **SUBSECTION (B) OF THIS SECTION, THE COURT MAY ORDER THE MAN TO**  
8 **PROVIDE FINANCIAL SUPPORT TO THE CHILD IN ACCORDANCE WITH TITLE 10**  
9 **OF THIS ARTICLE OR OTHERWISE.**

10           **[(b)] (D) (1)** A petitioner under this subtitle shall give a court notice that  
11 a man who is not named in the petition and has not been excluded as a father claims  
12 paternity.

13                   (2) After a request of a party or claimant and before ruling on a  
14 petition for adoption under this subtitle, a court shall hold a hearing on the issue of  
15 paternity.

16 9-101.2.

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

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

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

29                   **(3) TO A PARENT, IF THE COURT FINDS BY CLEAR AND**  
30 **CONVINCING EVIDENCE THAT:**

1 (I) THE PARENT HAS COMMITTED AN ACT PROHIBITED BY §  
2 3-303, § 3-304(A)(1) OR (2), § 3-323, OR § 3-602 OF THE CRIMINAL LAW  
3 ARTICLE AGAINST THE OTHER PARENT OR HAS COMMITTED AN ACT IN  
4 ANOTHER JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD  
5 CONSTITUTE THAT ACT; AND

6 (II) THE CHILD WAS CONCEIVED ~~AT THE TIME~~ AS A RESULT  
7 OF THE ACT.

8 (b) If it is in the best interest of the child, the court may approve a  
9 supervised visitation arrangement that assures the safety and the physiological,  
10 psychological, and emotional well-being of the child **AND OF THE CHILD'S OTHER**  
11 **PARENT OR GUARDIAN.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2007.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.