

SENATE BILL 663

D4
HB 1386/16 – JUD

4lr2531

By: **Senator Charles**

Introduced and read first time: January 29, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Custody – Rebuttable Presumption of Joint Custody**

3 FOR the purpose of establishing a rebuttable presumption in certain child custody
4 proceedings that certain custodial arrangements are in the best interests of a child
5 and establishing factors a court may consider when determining the best interests
6 of the child; authorizing the court to award sole custody under certain circumstances
7 based on a preponderance of the evidence after entering factors considered by the
8 court on the record; requiring the court to award visitation in a certain manner under
9 certain circumstances; and generally relating to child custody determinations.

10 BY adding to

11 Article – Family Law

12 Section 9–109

13 Annotated Code of Maryland

14 (2019 Replacement Volume and 2023 Supplement)

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

17 **Article – Family Law**

18 **9–109.**

19 **(A) IN AN INITIAL CHILD CUSTODY PROCEEDING, WHETHER PENDENTE LITE**
20 **OR PERMANENT, INVOLVING THE PARENTS OF A CHILD, REGARDLESS OF A PARENT’S**
21 **MARITAL STATUS OR GENDER, THERE IS A REBUTTABLE PRESUMPTION THAT:**

22 **(1) JOINT LEGAL CUSTODY IS IN THE BEST INTERESTS OF THE CHILD;**
23 **AND**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) JOINT PHYSICAL CUSTODY FOR APPROXIMATELY EQUAL PERIODS**
2 **OF TIME IS IN THE BEST INTERESTS OF THE CHILD.**

3 **(B) IN DETERMINING THE BEST INTERESTS OF THE CHILD, THE COURT MAY**
4 **CONSIDER THE FOLLOWING FACTORS:**

5 **(1) THE PREFERENCES OF THE CHILD IF THE COURT DETERMINES**
6 **THAT THE CHILD IS OF A SUFFICIENT EMOTIONAL MATURITY AND MENTAL CAPACITY**
7 **REGARDLESS OF THE AGE OF THE CHILD;**

8 **(2) THE DISTANCE BETWEEN THE RESIDENCES OF THE PARENTS;**

9 **(3) THE DISTANCE BETWEEN EACH PARENT'S RESIDENCE AND THE**
10 **CHILD'S SCHOOL;**

11 **(4) THE FLEXIBILITY OF EACH PARENT'S WORK SCHEDULE;**

12 **(5) EACH PARENT'S ABILITY TO ASSIST WITH AFTER SCHOOL CARE;**
13 **AND**

14 **(6) ANY OTHER FACTOR THE COURT FINDS RELEVANT.**

15 **(C) (1) IF THE COURT DETERMINES BY A PREPONDERANCE OF THE**
16 **EVIDENCE THAT A JOINT CUSTODY ARRANGEMENT IS NOT IN THE BEST INTERESTS**
17 **OF THE CHILD, THE COURT:**

18 **(I) MAY AWARD SOLE CUSTODY TO ONE PARENT; AND**

19 **(II) SHALL ENTER ON THE RECORD THE FACTORS CONSIDERED**
20 **BY THE COURT IN REACHING ITS DECISION.**

21 **(2) WHEN THE COURT DETERMINES, IN ACCORDANCE WITH**
22 **PARAGRAPH (1) OF THIS SUBSECTION, THAT JOINT CUSTODY IS NOT IN THE BEST**
23 **INTERESTS OF THE CHILD, THE COURT SHALL AWARD VISITATION IN A MANNER**
24 **THAT ENSURES FREQUENT AND CONTINUING CONTACT BETWEEN THE CHILD AND**
25 **THE NONCUSTODIAL PARENT.**

26 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
27 **October 1, 2024.**