

By: Delegate Montague

Requested: June 21, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Family Division - Establishment**

3 FOR the purpose of requiring the Chief Judge of the Court of Appeals to establish a
4 Family Division in certain circuit courts; repealing certain provisions of law relating
5 to allowing the establishment of a Family Division and the continuance of domestic
6 relations masters; repealing an obsolete provision of law; providing for the transfer
7 of and appointment of certain judges to a Family Division; requiring that a certain
8 number of judges be assigned to a Family Division; creating certain judgeships for
9 the Family Division in certain counties; making certain provisions for juvenile
10 judges in Montgomery County; providing for a Supervising Family Judge of a Family
11 Division; providing that the judges of the circuit court shall retain the authority to
12 take certain actions; providing for the transfer of Masters in Chancery and juvenile
13 court masters to a Family Division; providing for the jurisdiction of a Family
14 Division; requiring the State to provide funding for certain personnel of a Family
15 Division under certain circumstances; requiring jurisdictions that receive State
16 funding to appropriate local funds in a certain amount for a certain purpose;
17 providing for the transfer of judges, court personnel, and jurisdiction to certain
18 Family Divisions; providing that this Act may not be interpreted to require or
19 permit the establishment of a Family Division circuit judge in any jurisdiction in
20 which a Family Division is not established under this Act; providing for a delayed
21 effective date; and generally relating to establishing a Family Division in certain
22 circuit courts.

23 BY repealing

24 Chapter 198 of the Acts of the General Assembly of 1993

25 BY adding to

26 Article - Courts and Judicial Proceedings

27 Section 1-504

28 Annotated Code of Maryland

29 (1995 Replacement Volume and 1995 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 MARYLAND, That Chapter 198 of the Acts of the General Assembly of 1993 be
32 repealed.

2

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Courts and Judicial Proceedings**

4 1-504.

5 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

6 (1) FAMILY, DOMESTIC, AND JUVENILE MATTERS BE TREATED IN THE
7 JUDICIAL SYSTEM AS EQUALLY IMPORTANT AS OTHER MATTERS, BOTH CIVIL AND
8 CRIMINAL;

9 (2) IN ORDER TO BETTER ENABLE THE COURTS TO HANDLE FAMILY,
10 DOMESTIC, AND JUVENILE MATTERS IN A MORE COORDINATED, EFFICIENT, AND
11 RESPONSIVE MANNER, THERE SHALL BE ESTABLISHED A FAMILY DIVISION IN EACH
12 CIRCUIT COURT HAVING MORE THAN SEVEN CIRCUIT COURT JUDGES;

13 (3) THE JUDGES OF THE FAMILY DIVISION HAVE SPECIAL EXPERIENCE,
14 TRAINING, OR INTEREST IN FAMILY LAW OR JUVENILE CAUSES AND AN
15 UNDERSTANDING OF THE PROBLEMS OF FAMILIES AND CHILDREN LIKELY TO COME
16 BEFORE THE FAMILY DIVISION; AND

17 (4) IN EVERY JURISDICTION IN THE STATE, ESSENTIAL FAMILY
18 SUPPORT SERVICES SHALL BE PROVIDED, INCLUDING MEDIATION IN CUSTODY AND
19 VISITATION MATTERS, CUSTODY INVESTIGATIONS, TRAINED SOCIAL WORKERS TO
20 RESPOND TO EMERGENCIES, MENTAL HEALTH SERVICES, INFORMATION SERVICES,
21 AND PARENTING SERVICES.

22 (B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "FAMILY DIVISION" MEANS THE SUBDIVISION OF A CIRCUIT COURT
25 ESTABLISHED UNDER THIS SECTION WHICH SHALL HAVE JURISDICTION OVER ALL
26 CASES UNDER SUBSECTION (G) OF THIS SECTION.

27 (3) "GENERAL TRIAL DIVISION" MEANS THE SUBDIVISION OF A CIRCUIT
28 COURT WHICH HAS OR SHALL HAVE JURISDICTION OVER ALL OTHER CASES NOT
29 UNDER THE JURISDICTION OF THE FAMILY DIVISION UNDER SUBSECTION (G) OF
30 THIS SECTION.

31 (C) (1) THE CHIEF JUDGE OF THE COURT OF APPEALS SHALL ESTABLISH A
32 FAMILY DIVISION IN:

33 (I) ANNE ARUNDEL COUNTY, BALTIMORE CITY, BALTIMORE
34 COUNTY, MONTGOMERY COUNTY, AND PRINCE GEORGE'S COUNTY; AND

35 (II) EACH CIRCUIT COURT HAVING MORE THAN SEVEN CIRCUIT
36 COURT JUDGES.

37 (2) EACH FAMILY DIVISION SHALL HAVE A SUFFICIENT NUMBER OF
38 JUDGES APPOINTED OR TRANSFERRED TO HANDLE THE CASES UNDER THE
39 JURISDICTION OF THE FAMILY DIVISION.

1 (D) (1) UNLESS THE ADMINISTRATION OF JUSTICE REQUIRES OTHERWISE,
2 A JUDGE ASSIGNED TO THE FAMILY DIVISION SHALL DEVOTE FULL TIME AND
3 ATTENTION TO MATTERS UNDER THE JURISDICTION OF THE FAMILY DIVISION.

4 (2) FOR EACH FAMILY DIVISION, THE CIRCUIT ADMINISTRATIVE JUDGE
5 MAY, WHERE NECESSARY FOR THE ADMINISTRATION OF JUSTICE,
6 CROSS-DESIGNATE CERTAIN JUDGES OF THE FAMILY DIVISION AND THE GENERAL
7 TRIAL DIVISION ON A TEMPORARY BASIS.

8 (E) (1) FOR EACH FAMILY DIVISION, THE CIRCUIT COURT
9 ADMINISTRATIVE JUDGE SHALL APPOINT A SUPERVISING FAMILY JUDGE, GIVING
10 PRIORITY TO THOSE JUDGES ASSIGNED TO THE FAMILY DIVISION, AND TO THOSE
11 JUDGES WILLING TO SERVE AS SUPERVISING FAMILY JUDGE FOR A 4-YEAR TERM.

12 (2) THE SUPERVISING FAMILY JUDGE SHALL:

13 (I) OVERSEE THE SCHEDULING OF FAMILY CASES;

14 (II) COORDINATE ESSENTIAL FAMILY SUPPORT SERVICES, AS
15 PROVIDED FOR IN SUBSECTION (H)(2) OF THIS SECTION; AND

16 (III) HANDLE ALL OTHER MATTERS RELATED TO THE EFFECTIVE
17 FUNCTIONING OF THE FAMILY DIVISION, SUBJECT TO THE DIRECTION OF THE
18 CIRCUIT COURT ADMINISTRATIVE JUDGE IN MATTERS OF COMMON CONCERN.

19 (F) (1) THE JUDGES OF THE CIRCUIT COURT SHALL RETAIN THE
20 AUTHORITY TO:

21 (I) APPOINT AND USE MASTERS, SPECIAL MASTERS, AND
22 EXAMINERS TO ASSIST IN THE RESOLUTION OF FAMILY DIVISION ISSUES;

23 (II) PRESCRIBE THE COMPENSATION, FEES, AND COSTS OF THE
24 MASTERS, SPECIAL MASTERS, AND EXAMINERS, AND ASSESS THEM AMONG THE
25 PARTIES; AND

26 (III) SPECIFY OR LIMIT THE POWERS OF A SPECIAL MASTER, OR
27 PROVIDE OTHER SPECIFICATIONS IN AN ORDER OF APPOINTMENT.

28 (2) ALL MASTERS IN CHANCERY (EXCEPT THE GENERAL EQUITY
29 MASTER IN BALTIMORE CITY) OF A CIRCUIT COURT WHERE A FAMILY DIVISION IS
30 ESTABLISHED SHALL BECOME MASTERS OF THE FAMILY DIVISION.

31 (3) ALL JUVENILE COURT MASTERS IN A CIRCUIT COURT WHERE A
32 FAMILY DIVISION IS ESTABLISHED SHALL BECOME MASTERS OF THE FAMILY
33 DIVISION.

34 (G) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
35 SUBSECTION, THE FAMILY DIVISION SHALL HAVE EXCLUSIVE JURISDICTION OVER
36 THE FOLLOWING:

37 (I) DISSOLUTION OF MARRIAGE, INCLUDING DIVORCE,
38 ANNULMENT, AND PROPERTY DISTRIBUTION;

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1 (II) CHILD CUSTODY AND VISITATION, INCLUDING PROCEEDINGS
2 UNDER THE MARYLAND UNIFORM CHILD CUSTODY JURISDICTION ACT;

3 (III) ALIMONY AND CHILD SUPPORT, INCLUDING PROCEEDINGS
4 UNDER THE MARYLAND UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT;

5 (IV) ESTABLISHMENT AND TERMINATION OF THE PARENT-CHILD
6 RELATIONSHIP, INCLUDING PATERNITY, ADOPTION, TERMINATION OF PARENTAL
7 RIGHTS, AND EMANCIPATION;

8 (V) CRIMINAL NONSUPPORT AND DESERTION, INCLUDING
9 PROCEEDINGS UNDER TITLE 10, SUBTITLE 2 AND TITLE 13 OF THE FAMILY LAW
10 ARTICLE;

11 (VI) NAME CHANGES;

12 (VII) GUARDIANSHIP OF MINORS AND DISABLED PERSONS UNDER
13 TITLE 13 OF THE ESTATES AND TRUSTS ARTICLE;

14 (VIII) INVOLUNTARY ADMISSION TO STATE FACILITIES AND
15 EMERGENCY EVALUATIONS UNDER TITLE 10, SUBTITLE 6 OF THE HEALTH -
16 GENERAL ARTICLE;

17 (IX) FAMILY LEGAL MEDICAL ISSUES, INCLUDING DECISIONS ON
18 THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING MEDICAL PROCEDURES;

19 (X) EXCEPT AS PROVIDED IN PARAGRAPH (G)(2)(I) OF THIS
20 SUBSECTION, CASES INVOLVING DOMESTIC VIOLENCE UNDER TITLE 4, SUBTITLE 5
21 OF THE FAMILY LAW ARTICLE; AND

22 (XI) JUVENILE CAUSES UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
23 ARTICLE.

24 (2) IN DOMESTIC VIOLENCE CASES UNDER TITLE 4, SUBTITLE 5 OF THE
25 FAMILY LAW ARTICLE:

26 (I) THE DISTRICT COURT AND THE FAMILY DIVISION SHALL HAVE
27 CONCURRENT JURISDICTION OVER ALL EX PARTE PROCEEDINGS; AND

28 (II) THE FAMILY DIVISION SHALL HAVE EXCLUSIVE JURISDICTION
29 OVER PROTECTIVE ORDER PROCEEDINGS.

30 (3) THIS SUBSECTION DOES NOT CHANGE THE JURISDICTION OF THE
31 ORPHANS' COURT.

32 (H) THE STATE SHALL PROVIDE FUNDING FOR:

33 (1) ONE COURTROOM CLERK, ONE LAW CLERK, ONE SECRETARY, AND
34 ONE COURT REPORTER FOR EACH JUDGE ASSIGNED TO A FAMILY DIVISION;

35 (2) ESSENTIAL FAMILY SUPPORT SERVICES IN ALL JURISDICTIONS,
36 BOTH THOSE WITH AND WITHOUT A FAMILY DIVISION, INCLUDING:

37 (I) MEDIATION IN CUSTODY AND VISITATION MATTERS;

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1 (II) CUSTODY INVESTIGATION;

2 (III) TRAINED SOCIAL WORKERS TO RESPOND IMMEDIATELY TO
3 EMERGENCIES BY INTERVIEWING PARTIES, GATHERING INFORMATION, AND
4 MAKING RECOMMENDATIONS TO JUDGES AND MASTERS;

5 (IV) MENTAL HEALTH SERVICES TO PROVIDE MENTAL HEALTH
6 EVALUATIONS;

7 (V) INFORMATION SERVICES TO PROVIDE PROCEDURAL
8 ASSISTANCE TO PRO SE LITIGANTS; AND

9 (VI) PARENTING SEMINARS; AND

10 (3) A FAMILY SUPPORT SERVICES COORDINATOR IN ALL
11 JURISDICTIONS, BOTH THOSE WITH AND WITHOUT A FAMILY DIVISION, WHO SHALL:

12 (I) IDENTIFY EXISTING ESSENTIAL FAMILY SUPPORT SERVICES;
13 AND

14 (II) ASSESS THE NEED FOR BOTH ADDITIONAL ESSENTIAL FAMILY
15 SUPPORT SERVICES, AND NONESSENTIAL BUT IMPORTANT FAMILY SUPPORT
16 SERVICES, INCLUDING GENERAL MEDIATION PROGRAMS, CASE MANAGERS, AND
17 FAMILY FOLLOW-UP SERVICES.

18 (I) NOTHING IN THIS SECTION SHALL PROHIBIT THE TEMPORARY USE OF
19 FAMILY DIVISION COURT REPORTERS AND CLERKS BY THE GENERAL TRIAL
20 DIVISION OF A CIRCUIT COURT OR THE USE OF GENERAL TRIAL DIVISION COURT
21 REPORTERS AND CLERKS BY THE FAMILY DIVISION.

22 SECTION 3. AND BE IT FURTHER ENACTED, That in Anne Arundel County,
23 Baltimore City, Baltimore County, Montgomery County, and Prince George's County, by
24 January 1, 2001, there shall be transferred or appointed to each FamilyDivision a
25 sufficient number of judges to handle the cases under the Family Division's jurisdiction.

26 SECTION 4. AND BE IT FURTHER ENACTED, That by January 1, 1998, the
27 Circuit Administrative Judge of each of the following jurisdictions shall select the
28 following number of current judges of the circuit court for appointmentto the Family
29 Division, giving priority to those judges who are willing to serve and have exhibited the
30 proper temperament:

31 (1) Anne Arundel County - Two judges;

32 (2) Baltimore City - Five judges;

33 (3) Baltimore County - Three judges;

34 (4) Montgomery County - Three judges; and

35 (5) Prince George's County - Five judges.

36 SECTION 5. AND BE IT FURTHER ENACTED, That each Circuit
37 Administrative Judge, in keeping with the intent and purposes of a Family Division as set
38 forth in this Act, shall make appointments to the Family Division as follows:

1 (1) First priority shall be given to any judge with the appropriate
2 temperament and training who is willing to serve a 4-year term;

3 (2) Second priority shall be given to any judge with the appropriate
4 temperament and training who is willing to serve a term ranging from 6 months to 4 years,
5 to be determined by the Circuit Administrative Judge;

6 (3) The Circuit Administrative Judge, when necessary for the administration
7 of justice, may terminate or shorten a judge's assignment to the Family Division, or rotate
8 a judge out of the Family Division on a temporary basis;

9 (4) A Family Division judge whose 4-year term expires may not be
10 reappointed until 1 year after the expiration of the previous term;

11 (5) The Circuit Administrative Judge, when necessary for the administration
12 of justice, may assign to the Family Division a greater number of judges than provided for
13 in Section 4 of this Act; and

14 (6) In addition to the three circuit court judges appointed to the Family
15 Division of the Circuit Court of Montgomery County under Section 4 of this Act, the
16 Chief Judge of the Court of Appeals shall cross-designate the three juvenile judges of the
17 District Court in Montgomery County to the Family Division in Montgomery County.

18 SECTION 6. AND BE IT FURTHER ENACTED, That on January 1, 1998, in
19 addition to the positions established by the transfer of judges set forth in Section 4 of this
20 Act, there shall be created and assigned to the Family Division in each county set forth
21 below the following number of new judgeships, to be filled by the Governor by candidates
22 who have the appropriate temperament and training, and who are willing to serve in the
23 Family Division for a 4-year term, subject to the discretion of the Circuit Administrative
24 Judge as provided for in Section 5(3) of this Act:

25 (1) Baltimore City - 1;

26 (2) Baltimore County - 1; and

27 (3) Prince George's County - 1.

28 SECTION 7. AND BE IT FURTHER ENACTED, That on January 1, 1999, in
29 addition to the positions established by the transfer of judges set forth in Section 4 of this
30 Act, there shall be created and assigned to the Family Division in each county set forth
31 below the following number of new judgeships, to be filled by the Governor by candidates
32 who have the appropriate temperament and training, and who are willing to serve in the
33 Family Division for a 4-year term, subject to the discretion of the Circuit Administrative
34 Judge as provided for in Section 5(3) of this Act:

35 (1) Anne Arundel County - 1; and

36 (2) Montgomery County - 1.

37 SECTION 8. AND BE IT FURTHER ENACTED, That on January 1, 2000, in
38 addition to the positions established by the transfer of judges set forth in Section 4 of this
39 Act, there shall be created and assigned to the Family Division in each county set forth
40 below the following number of new judgeships, to be filled by the Governor by candidates

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1 who have the appropriate temperament and training , and who are willing to serve in the
2 Family Division for a 4-year term, subject to the discretion of the Circuit Administrative
3 Judge as provided for in Section 5(3) of this Act:

4 (1) Baltimore City - 1; and

5 (2) Prince George's County - 1.

6 SECTION 9. AND BE IT FURTHER ENACTED, That on January 1, 2001, in
7 addition to the positions established by the transfer of judges set forth in Section 4 of this
8 Act, there shall be created and assigned to the Family Division of the Circuit Court of
9 Baltimore County one new judgeship, to be filled by the Governor by a candidate who has
10 the appropriate temperament and training, and who is willing to serve in the Family
11 Division for a 4-year term, subject to the discretion of the Circuit Administrative Judge as
12 provided for in Section 5(3) of this Act.

13 SECTION 10. AND BE IT FURTHER ENACTED, That in Anne Arundel County,
14 Baltimore City, Baltimore County, Montgomery County, and Prince George's County:

15 (1) All Masters in Chancery (except the General Equity Master in
16 Baltimore City) shall become Masters of the Family Division effective January 1, 1998;

17 (2) Before January 1, 2001, a Master in Chancery may exercise concurrent
18 jurisdiction under a General Trial Division;

19 (3) On and after January 1, 2001, all Masters in Chancery will exercise
20 jurisdiction exclusively under the Family Division; and

21 (4) All Juvenile Masters shall become Masters of the Family Division on
22 January 1, 2001.

23 SECTION 11. AND BE IT FURTHER ENACTED, That in Anne Arundel County,
24 Baltimore City, Baltimore County, Montgomery County, and Prince George's County the
25 transfer of jurisdiction to the Family Division shall occur as follows:

26 (1) All cases under the Family Division's jurisdiction which are filed on or
27 after January 1, 1998 shall be filed in the Family Division;

28 (2) Except as provided in paragraph (3) of this section, all cases pending in
29 a circuit court on January 1, 1998 shall be transferred to the Family Division; and

30 (3) A judge in the General Trial Division may elect to keep a case in the
31 General Trial Division which is pending on January 1, 1998 and which would otherwise be
32 transferred to the Family Division if the judge determines, either on motion of a party or
33 on the judge's own motion, that it would be in the best interests of the parties to keep the
34 case.

35 SECTION 12. AND BE IT FURTHER ENACTED, That jurisdiction over juvenile
36 causes under Title 3, Subtitle 8 of the Courts Article shall be transferred to the Family
37 Division as follows:

38 (1) In Montgomery County, all pending and new cases shall be transferred
39 by January 1, 1998; and

1 (2) In Anne Arundel County, Baltimore City, Baltimore County, and Prince
2 George's County, all new juvenile cases shall be filed in the Family Division on and after
3 January 1, 1998. By January 1, 2001, all pending juvenile cases, regardless of when filed,
4 shall be transferred to the Family Division. Between January 1, 1998 and January 1, 2001,
5 the General Trial Division and the Family Division may exercise concurrent jurisdiction
6 over juvenile cases. If it is in the interests of justice, any juvenile case may be transferred
7 between the General Trial Division and the Family Division between January 1, 1998 and
8 January 1, 2001.

9 SECTION 13. AND BE IT FURTHER ENACTED, That:

10 (a) The State-funded positions required by this Act shall be funded on the
11 following schedule:

12 (1) Beginning in the year each Family Division judge is appointed under
13 Sections 6, 7, and 8 of this Act, the State shall provide to each jurisdiction the funding for
14 one courtroom clerk, one law clerk, one secretary, and one court reporter for that judge;
15 and

16 (2) By December 31, 2001, the State shall provide to each jurisdiction the
17 funding for all court clerks, law clerks, secretaries, and court reporters for all Family
18 Division judges.

19 (b) Each jurisdiction receiving the State funding provided for in subsection (a) of
20 this section shall appropriate local funds to the circuit court system in an amount no less
21 than that appropriated by the jurisdiction in the prior fiscal year.

22 SECTION 14. AND BE IT FURTHER ENACTED, That this Act may not be
23 interpreted to require or permit the establishment of a Family Division circuit judge in
24 any jurisdiction in which a Family Division is not established under this Act.

25 SECTION 15. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 January 1, 1998.