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(PRE-FILED)

HB 644/95 - JUD

CF 6lr2388

By: Delegate Montague

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Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1996

CHAPTER ____

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

2

1 Section 1-504
2 Annotated Code of Maryland
3 (1995 Replacement Volume and 1995 Supplement)

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6 repealed.

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

9 **Article - Courts and Judicial Proceedings**

10 1-504.

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

12 (1) FAMILY, DOMESTIC, AND JUVENILE MATTERS BE TREATED IN THE
13 JUDICIAL SYSTEM AS EQUALLY IMPORTANT AS OTHER MATTERS, BOTH CIVIL AND
14 CRIMINAL;

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

19 (3) THE JUDGES OF THE FAMILY DIVISION HAVE SPECIAL EXPERIENCE,
20 TRAINING, OR INTEREST IN FAMILY LAW OR JUVENILE CAUSES AND AN
21 UNDERSTANDING OF THE PROBLEMS OF FAMILIES AND CHILDREN LIKELY TO COME
22 BEFORE THE FAMILY DIVISION; AND

23 (4) IN EVERY JURISDICTION IN THE STATE, ESSENTIAL FAMILY
24 SUPPORT SERVICES SHALL BE PROVIDED, INCLUDING MEDIATION IN CUSTODY AND
25 VISITATION MATTERS, CUSTODY INVESTIGATIONS, TRAINED SOCIAL WORKERS TO
26 RESPOND TO EMERGENCIES, MENTAL HEALTH SERVICES, INFORMATION SERVICES,
27 AND PARENTING SERVICES.

28 (B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

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

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

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

3

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

3 (II) EACH CIRCUIT COURT HAVING MORE THAN SEVEN CIRCUIT
4 COURT JUDGES.

5 (2) EACH FAMILY DIVISION SHALL HAVE A SUFFICIENT NUMBER OF
6 JUDGES APPOINTED OR TRANSFERRED TO HANDLE THE CASES UNDER THE
7 JURISDICTION OF THE FAMILY DIVISION.

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

11 (2) FOR EACH FAMILY DIVISION, THE CIRCUIT ADMINISTRATIVE JUDGE
12 MAY, WHERE NECESSARY FOR THE ADMINISTRATION OF JUSTICE,
13 CROSS-DESIGNATE CERTAIN JUDGES OF THE FAMILY DIVISION AND THE GENERAL
14 TRIAL DIVISION ON A TEMPORARY BASIS.

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

19 (2) THE SUPERVISING FAMILY JUDGE SHALL:

20 (I) OVERSEE THE SCHEDULING OF FAMILY CASES;

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

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

26 (F) (1) THE JUDGES OF THE CIRCUIT COURT SHALL RETAIN THE
27 AUTHORITY TO:

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

30 (II) PRESCRIBE THE COMPENSATION, FEES, AND COSTS OF THE
31 MASTERS, SPECIAL MASTERS, AND EXAMINERS, AND ASSESS THEM AMONG THE
32 PARTIES; AND

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

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

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

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

7 (I) DISSOLUTION OF MARRIAGE, INCLUDING DIVORCE,
8 ANNULMENT, AND PROPERTY DISTRIBUTION;

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

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

13 (IV) ESTABLISHMENT AND TERMINATION OF THE PARENT-CHILD
14 RELATIONSHIP, INCLUDING PATERNITY, ADOPTION, TERMINATION OF PARENTAL
15 RIGHTS, AND EMANCIPATION;

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

19 (VI) NAME CHANGES;

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

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

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

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

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

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

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

36 (II) THE FAMILY DIVISION SHALL HAVE EXCLUSIVE JURISDICTION
37 OVER PROTECTIVE ORDER PROCEEDINGS.

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1 (3) THIS SUBSECTION DOES NOT CHANGE THE JURISDICTION OF THE
2 ORPHANS' COURT.

3 (H) THE STATE SHALL PROVIDE FUNDING FOR:

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

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

8 (I) MEDIATION IN CUSTODY AND VISITATION MATTERS;

9 (II) CUSTODY INVESTIGATION;

10 (III) TRAINED SOCIAL WORKERS TO RESPOND IMMEDIATELY TO
11 EMERGENCIES BY INTERVIEWING PARTIES, GATHERING INFORMATION, AND
12 MAKING RECOMMENDATIONS TO JUDGES AND MASTERS;

13 (IV) MENTAL HEALTH SERVICES TO PROVIDE MENTAL HEALTH
14 EVALUATIONS;

15 (V) INFORMATION SERVICES TO PROVIDE PROCEDURAL
16 ASSISTANCE TO PRO SE LITIGANTS; AND

17 (VI) PARENTING SEMINARS; AND

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

20 (I) IDENTIFY EXISTING ESSENTIAL FAMILY SUPPORT SERVICES;
21 AND

22 (II) ASSESS THE NEED FOR BOTH ADDITIONAL ESSENTIAL FAMILY
23 SUPPORT SERVICES, AND NONESSENTIAL BUT IMPORTANT FAMILY SUPPORT
24 SERVICES, INCLUDING GENERAL MEDIATION PROGRAMS, CASE MANAGERS, AND
25 FAMILY FOLLOW-UP SERVICES.

26 (I) NOTHING IN THIS SECTION SHALL PROHIBIT THE TEMPORARY USE OF
27 FAMILY DIVISION COURT REPORTERS AND CLERKS BY THE GENERAL TRIAL
28 DIVISION OF A CIRCUIT COURT OR THE USE OF GENERAL TRIAL DIVISION COURT
29 REPORTERS AND CLERKS BY THE FAMILY DIVISION.

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

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

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1 (1) Anne Arundel County - Two judges;

2 (2) Baltimore City - Five judges;

3 (3) Baltimore County - Three judges;

4 (4) Montgomery County - Three judges; and

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

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

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

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

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

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

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

22 (6) In addition to the three circuit court judges appointed to the Family
23 Division of the Circuit Court of Montgomery County under Section 4 of this Act, the
24 Chief Judge of the Court of Appeals shall cross-designate the three juvenile judges of the
25 District Court in Montgomery County to the Family Division in Montgomery County. The
26 cross-designated judges shall continue to utilize courtroom space in the District Court
27 until alternative space is provided by the Montgomery County Government in accordance
28 with its Capital Improvement Plan.

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

36 (1) Baltimore City - 1;

37 (2) Baltimore County - 1; and

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

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

8 (1) Anne Arundel County - 1; and

9 (2) Montgomery County - 1.

10 SECTION 8. AND BE IT FURTHER ENACTED, That on January 1, 2000, in
11 addition to the positions established by the transfer of judges set forth in Section 4 of this
12 Act, there shall be created and assigned to the Family Division in eachcounty set forth
13 below the following number of new judgeships, to be filled by the Governor by candidates
14 who have the appropriate temperament and training , and who are willingto serve in the
15 Family Division for a 4-year term, subject to the discretion of the Circuit Administrative
16 Judge as provided for in Section 5(3) of this Act:

17 (1) Baltimore City - 1; and

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

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

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

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

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

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

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

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

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

8

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

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

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

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

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

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

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

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

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

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

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

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

