
By: Delegates Dembrow and Genn

Introduced and read first time: January 29, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Custody - Joint Legal Responsibility**

3 FOR the purpose of providing that there is a rebuttable presumption of joint legal
4 responsibility in certain child custody proceedings under certain circumstances;
5 providing that the presumption of joint legal responsibility may be rebutted by
6 certain evidence under certain circumstances; requiring joint physical custody under
7 certain circumstances; requiring a court to make certain findings; clarifying that an
8 award of joint legal responsibility does not affect certain other considerations;
9 requiring a court to consider certain factors when awarding sole legal responsibility
10 under certain circumstances; providing that this Act may not be considered a
11 material change in circumstances under certain circumstances; providing for the
12 application of this Act; defining certain terms; and generally relating to child
13 custody and responsibility.

14 BY renumbering

15 Article - Family Law
16 Section 9-101 through 9-106, respectively
17 to be Section 9-103 through 9-109, respectively
18 Annotated Code of Maryland
19 (1991 Replacement Volume and 1995 Supplement)

20 BY adding to

21 Article - Family Law
22 Section 9-101 and 9-102
23 Annotated Code of Maryland
24 (1991 Replacement Volume and 1995 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That Section(s) 9-101 through 9-106, respectively, of Article- Family
27 Law of the Annotated Code of Maryland be renumbered to be Section(s) 9-103 through
28 9-109, respectively.

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

2

1 **Article - Family Law**

2 9-101.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "JOINT LEGAL RESPONSIBILITY" MEANS THAT BOTH PARENTS OF A
6 CHILD SHARE EQUALLY THE RIGHTS AND DUTIES TO MAKE LONG RANGE
7 DECISIONS CONCERNING MATTERS OF MAJOR SIGNIFICANCE CONCERNING THE
8 CHILD'S LIFE AND WELFARE, INCLUDING DECISIONS CONCERNING THE CHILD'S:

9 (I) EDUCATION;

10 (II) RELIGIOUS TRAINING AND PRACTICE;

11 (III) DISCIPLINE; AND

12 (IV) MEDICAL CARE.

13 (3) "JOINT PHYSICAL CUSTODY" MEANS RESIDENTIAL AND VISITATION
14 ARRANGEMENTS FOR THE CHILD WHICH PROVIDE FOR FREQUENT AND
15 CONTINUING CONTACT BETWEEN THE CHILD AND EACH PARENT.

16 (B) IN AN INITIAL CUSTODY PROCEEDING INVOLVING THE PARENTS OF A
17 MINOR CHILD, THERE IS A REBUTTABLE PRESUMPTION THAT AN AWARD OF JOINT
18 LEGAL RESPONSIBILITY TO BOTH PARENTS IS IN THE BEST INTERESTS OF THE
19 CHILD.

20 (C) THE PRESUMPTION IN FAVOR OF JOINT LEGAL RESPONSIBILITY
21 ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION MAY BE REBUTTED BY
22 EVIDENCE THAT AN AWARD OF JOINT LEGAL RESPONSIBILITY TO BOTH PARENTS IS
23 NOT IN THE BEST INTERESTS OF THE CHILD, INCLUDING EVIDENCE THAT A PARENT
24 HAS:

25 (1) KNOWINGLY AND VOLUNTARILY ABANDONED THE CHILD;

26 (2) COMMITTED CHILD ABUSE OR NEGLECT AS DEFINED UNDER TITLE
27 5, SUBTITLE 7 OF THIS ARTICLE; OR

28 (3) COMMITTED ABUSE AS DESCRIBED UNDER § 9-104 OF THIS
29 SUBTITLE.

30 (D) IF A COURT DOES NOT ORDER JOINT LEGAL RESPONSIBILITY TO BOTH
31 PARENTS, THE COURT SHALL STATE ON THE RECORD THE REASONS FOR NOT
32 ORDERING JOINT LEGAL RESPONSIBILITY.

33 (E) SUBJECT TO THE PROVISIONS OF SUBSECTION (F) OF THIS SECTION, IF A
34 COURT AWARDS JOINT LEGAL RESPONSIBILITY TO BOTH PARENTS, THE COURT'S
35 ORDER SHALL INCLUDE PROVISIONS FOR THE JOINT PHYSICAL CUSTODY OF THE
36 CHILD.

37 (F) (1) A COURT MAY AWARD JOINT LEGAL RESPONSIBILITY TO BOTH
38 PARENTS WITHOUT ORDERING PROVISIONS FOR THE JOINT PHYSICAL CUSTODY OF

3
1 THE CHILD IF THE COURT IN ITS DISCRETION DETERMINES THAT JOINT PHYSICAL
2 CUSTODY WOULD NOT BE IN THE BEST INTERESTS OF THE CHILD OR WOULD NOT BE
3 PRACTICABLE UNDER THE CIRCUMSTANCES OF THE CASE.

4 (2) IF THE COURT DOES NOT ORDER JOINT PHYSICAL CUSTODY OF THE
5 CHILD, THE COURT SHALL STATE ON THE RECORD THE REASONS FOR NOT DOING
6 SO.

7 (G) IN CONSIDERING PROVISIONS FOR THE JOINT PHYSICAL CUSTODY OF A
8 CHILD, THE COURT SHALL CONSIDER THE BEST INTERESTS OF THE CHILD AND
9 SHALL GIVE PREFERENCE TO ANY RESIDENTIAL AND VISITATION ARRANGEMENTS
10 PROPOSED BY THE PARENTS.

11 (H) AN AWARD OF JOINT LEGAL RESPONSIBILITY TO BOTH PARENTS DOES
12 NOT AFFECT THE COURT'S DETERMINATION REGARDING THE DUTY TO PROVIDE
13 FOR THE FINANCIAL SUPPORT OF THE CHILD IN ACCORDANCE WITH THE
14 PROVISIONS OF TITLE 12 OF THIS ARTICLE.

15 (I) AN AWARD OF JOINT LEGAL RESPONSIBILITY TO BOTH PARENTS DOES
16 NOT AFFECT THE COURT'S DETERMINATION FOR THE USE AND POSSESSION OF THE
17 FAMILY HOME AND FAMILY USE PERSONAL PROPERTY IN ACCORDANCE WITH THE
18 PROVISIONS OF §§ 8-207 THROUGH 8-213 OF THIS ARTICLE.

19 9-102.

20 (A) IN ANY CUSTODY PROCEEDING INVOLVING THE PARENTS OF A MINOR
21 CHILD, IF THE COURT DOES NOT AWARD JOINT LEGAL RESPONSIBILITY TO BOTH
22 PARENTS UNDER § 9-101 OF THIS SUBTITLE, THE COURT SHALL AWARD SOLE LEGAL
23 RESPONSIBILITY TO ONE OF THE PARENTS IN ACCORDANCE WITH THE BEST
24 INTERESTS OF THE CHILD AFTER CONSIDERATION OF THE FACTORS SPECIFIED IN
25 SUBSECTION (B) OF THIS SECTION.

26 (B) IN DETERMINING AN AWARD OF SOLE LEGAL RESPONSIBILITY WHICH
27 WOULD BE IN THE BEST INTERESTS OF THE CHILD, THE COURT SHALL CONSIDER
28 THE FOLLOWING FACTORS:

29 (1) THE WISHES OF THE CHILD;

30 (2) THE WISHES OF THE CHILD'S PARENTS;

31 (3) THE LENGTH OF TIME THAT THE CHILD HAS BEEN UNDER THE
32 ACTUAL CARE AND CONTROL OF EITHER PARENT OR ANY PERSON OTHER THAN A
33 PARENT;

34 (4) THE INTERACTION AND INTERRELATIONSHIP OF THE CHILD WITH
35 PARENTS, SIBLINGS, AND ANY OTHER PERSON WHO MAY SIGNIFICANTLY AFFECT
36 THE CHILD'S BEST INTERESTS;

37 (5) THE CHILD'S ADJUSTMENT TO HOME, SCHOOL, OR COMMUNITY;

38 (6) THE MENTAL AND PHYSICAL HEALTH OF THE CHILD AND OF BOTH
39 PARENTS;

4

1 (7) THE WILLINGNESS OF EACH PARENT TO RESPECT THE CHILD'S
2 RELATIONSHIP WITH THE OTHER PARENT AND TO ALLOW MEANINGFUL AND
3 CONTINUING CONTACT BETWEEN THE CHILD AND THE OTHER PARENT;

4 (8) WHETHER EITHER PARENT HAS ABANDONED THE CHILD;

5 (9) WHETHER EITHER PARENT HAS COMMITTED AN ACT OF CHILD
6 ABUSE OR NEGLECT AS DEFINED UNDER TITLE 5, SUBTITLE 7 OF THIS ARTICLE;

7 (10) WHETHER EITHER PARENT HAS COMMITTED AN ACT OF ABUSE AS
8 DESCRIBED IN § 9-105 OF THIS SUBTITLE; AND

9 (11) ANY OTHER FACTOR WHICH THE COURT CONSIDERS NECESSARY
10 OR APPROPRIATE TO CONSIDER IN ORDER TO REACH A DETERMINATION
11 REGARDING SOLE LEGAL RESPONSIBILITY WHICH WOULD BE IN THE BEST
12 INTERESTS OF THE CHILD.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
14 considered a material change in circumstances for purposes of modifying court orders for
15 child custody in cases where initial pleadings were filed before October 1, 1996.

16 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1996 and shall apply only to actions filed on or after October 1, 1996 for cases
18 in which no prior custody order has been issued.