
By: Delegates Frank and E. Burns

Introduced and read first time: January 23, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Custody - Presumption of Joint Legal and Physical Custody**

3 FOR the purpose of establishing a presumption of joint legal and physical custody of a
4 child in a custody or visitation proceeding; providing for a certain rebuttal based on
5 a preponderance of the evidence; defining certain terms; providing for the
6 application of this Act; and generally relating to a presumption of joint legal and
7 physical custody of children.

8 BY adding to

9 Article - Family Law

10 Section 9-101.2

11 Annotated Code of Maryland

12 (1991 Replacement Volume and 1996 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Family Law**

16 9-101.2.

17 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
18 INDICATED.

19 (2) "JOINT LEGAL CUSTODY" MEANS THAT BOTH PARENTS HAVE
20 EQUAL RIGHTS AND RESPONSIBILITIES FOR MAJOR DECISIONS CONCERNING THE
21 CHILD, INCLUDING THE CHILD'S EDUCATION, HEALTH CARE, AND RELIGIOUS
22 TRAINING.

23 (3) "JOINT PHYSICAL CUSTODY" MEANS THAT PHYSICAL CUSTODY IS
24 SHARED BY THE PARENTS AND ASSURES THE CHILD OF SUBSTANTIALLY EQUAL
25 TIME AND CONTACT WITH BOTH PARENTS.

26 (4) "SOLE CUSTODY" MEANS THAT ONE PARENT HAS BEEN AWARDED
27 PERMANENT CUSTODY OF A CHILD BY A COURT ORDER, WITH THE RIGHTS AND
28 RESPONSIBILITIES FOR MAJOR DECISIONS CONCERNING THE CHILD, AND THE
29 NONCUSTODIAL PARENT HAS THE RIGHT TO VISITATION.

1 (B) UNLESS THE PARENTS AGREE ON SOLE CUSTODY OR SOME
2 COMBINATION OF SOLE, JOINT LEGAL, OR JOINT PHYSICAL CUSTODY OF A CHILD, IN
3 A CUSTODY OR VISITATION PROCEEDING, THERE IS A PRESUMPTION OF JOINT
4 LEGAL AND PHYSICAL CUSTODY OF THE CHILD.

5 (C) THE PRESUMPTION ESTABLISHED IN SUBSECTION (B) OF THIS SECTION
6 MAY BE REBUTTED BY A SHOWING, BASED ON A PREPONDERANCE OF THE
7 EVIDENCE, THAT JOINT LEGAL AND PHYSICAL CUSTODY OF A CHILD IS NOT IN THE
8 BEST INTEREST OF THE CHILD.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
10 only prospectively and may not be applied or interpreted to have any effect on or
11 application to any custody or visitation order entered before the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1997.