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HB 18/96 - JUD

1997 Regular Session
7r1904
CF 7r0136

**By: Senators Kelley, Trotter, Lawlah, Teitelbaum, Sfikas, Conway, Hughes, Boozer,
Van Hollen, Hollinger, Jimeno, Forehand, and Frosh**

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

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; requiring either the
7 transfer of judges from a circuit's general trial division to a Family Division or the
8 creation of judgeships by judicial certification for a Family Division; making certain
9 provisions for juvenile judges in Montgomery County; establishing a Supervising
10 Family Judge for each Family Division; authorizing the judges of the circuit court to
11 retain the authority to take certain actions; transferring Masters in Chancery and
12 juvenile court masters to a Family Division; providing for the jurisdiction of a
13 Family Division; requiring the State to provide funding for certain personnel of a
14 Family Division under certain circumstances; requiring jurisdictions that receive
15 State funding to appropriate local funds in a certain amount for a certain purpose;
16 transferring judges, court personnel, and jurisdiction to certain Family Divisions;
17 providing that this Act may not be interpreted to require or permit the
18 establishment of a Family Division circuit judge in any jurisdiction in which a Family
19 Division is not established under this Act; providing for a delayed effective date;
20 and generally relating to establishing a Family Division in certain circuit courts.

21 BY repealing

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

23 BY adding to

24 Article - Courts and Judicial Proceedings

25 Section 1-504

26 Annotated Code of Maryland

27 (1995 Replacement Volume and 1996 Supplement)

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

29 MARYLAND, That Chapter 198 of the Acts of the General Assembly of 1993 be

30 repealed.

31 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland

32 read as follows:

2

1 **Article - Courts and Judicial Proceedings**

2 1-504.

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

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

7 (2) IN ORDER TO BETTER ENABLE THE COURTS TO HANDLE FAMILY,
8 DOMESTIC, AND JUVENILE MATTERS IN A MORE COORDINATED, EFFICIENT, AND
9 RESPONSIVE MANNER, THE CHIEF JUDGE OF THE COURT OF APPEALS SHALL
10 ESTABLISH A FAMILY DIVISION IN EACH CIRCUIT COURT HAVING MORE THAN
11 SEVEN CIRCUIT COURT JUDGES;

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

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

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

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

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

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

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

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

36 (2) EACH FAMILY DIVISION SHALL HAVE A SUFFICIENT NUMBER OF
37 JUDGES TRANSFERRED FROM A CIRCUIT'S GENERAL TRIAL DIVISION OR CREATED
38 BY JUDICIAL CERTIFICATION TO HANDLE THE CASES UNDER THE JURISDICTION OF
39 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 ADMINISTRATIVE JUDGE
9 SHALL APPOINT A SUPERVISING FAMILY JUDGE, GIVING PRIORITY TO THOSE
10 JUDGES ASSIGNED TO THE FAMILY DIVISION, AND TO THOSE JUDGES WILLING TO
11 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 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 INTERSTATE FAMILY 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 (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,
24 beginning January 1, 1999 and completed no later than January 1, 2002, there shall be
25 transferred from a circuit's general trial division or created by judicial certification a
26 sufficient number of judges to handle the cases under the Family Division's jurisdiction.

27 SECTION 4. AND BE IT FURTHER ENACTED, That each Circuit
28 Administrative Judge shall make assignments to the Family Division, in keeping with the
29 intent and purposes of a Family Division as set forth in this Act, with respect to both the
30 length of full-time service in the Family Division and the temperament and experience of
31 the judges selected.

32 SECTION 5. AND BE IT FURTHER ENACTED, That in addition to the circuit
33 court judges assigned to the Family Division of the Circuit Court of Montgomery County,
34 the Chief Judge of the Court of Appeals shall cross-designate the three juvenile judges of
35 the District Court in Montgomery County to the Family Division in Montgomery County.
36 The cross-designated judges shall continue to utilize courtroom space in the District
37 Court until alternative space is provided by the Montgomery County government in
38 accordance with its Capital Improvement Plan.

39 SECTION 6. AND BE IT FURTHER ENACTED, That any new judgeships
40 created through judicial certification in order to ensure a sufficient number of judges to
41 handle the cases under the Family Division's jurisdiction as set forth in Section 3, shall be

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1 filled by the Governor in keeping with the intent and purpose of a Family Division as set
2 forth in this Act, with respect to both a candidate's temperament and experience with
3 family law cases and a candidate's desire to serve on a full-time basis in the Family
4 Division.

5 SECTION 7. AND BE IT FURTHER ENACTED, That in Anne Arundel County,
6 Baltimore City, Baltimore County, Montgomery County, and Prince George's County:

7 (1) All Masters in Chancery (except the General Equity Master in
8 Baltimore City) shall become Masters of the Family Division effective January 1, 1999;

9 (2) Before January 1, 2002, a Master in Chancery may exercise concurrent
10 jurisdiction under a General Trial Division;

11 (3) On and after January 1, 2002, all Masters in Chancery will exercise
12 jurisdiction exclusively under the Family Division; and

13 (4) All Juvenile Masters shall become Masters of the Family Division on
14 January 1, 2002.

15 SECTION 8. AND BE IT FURTHER ENACTED, That in Anne Arundel County,
16 Baltimore City, Baltimore County, Montgomery County, and Prince George's County the
17 transfer of jurisdiction to the Family Division shall occur as follows:

18 (1) All cases under the Family Division's jurisdiction which are filed on or
19 after January 1, 1999 shall be filed in the Family Division;

20 (2) Except as provided in paragraph (3) of this section, all cases pending in
21 a circuit court on January 1, 1999 shall be transferred to the Family Division; and

22 (3) A judge in the General Trial Division may elect to keep a case in the
23 General Trial Division which is pending on January 1, 1999 and which would otherwise be
24 transferred to the Family Division if the judge determines, either on motion of a party or
25 on the judge's own motion, that it would be in the best interests of the parties to keep the
26 case.

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

30 (1) In Montgomery County, all pending and new cases shall be transferred
31 by January 1, 1999; and

32 (2) In Anne Arundel County, Baltimore City, Baltimore County, and Prince
33 George's County, all new juvenile cases shall be filed in the Family Division on and after
34 January 1, 1999. By January 1, 2002, all pending juvenile cases, regardless of when filed,
35 shall be transferred to the Family Division. Between January 1, 1999 and January 1, 2002,
36 the General Trial Division and the Family Division may exercise concurrent jurisdiction
37 over juvenile cases. If it is in the interests of justice, any juvenile case may be transferred
38 between the General Trial Division and the Family Division between January 1, 1999 and
39 January 1, 2002.

40 SECTION 10. AND BE IT FURTHER ENACTED, That:

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

3 (1) Beginning in the year any Family Division judge is transferred from a
4 circuit's general trial division or created by judicial certification, the State shall provide to
5 each jurisdiction the funding for one courtroom clerk, one law clerk, one secretary, and
6 one court reporter for that judge; and

7 (2) Beginning January 1, 1999 and completed no later than December 31,
8 2002, the State shall provide to each jurisdiction the funding for all court clerks, law
9 clerks, secretaries, and court reporters for all Family Division judges.

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

13 SECTION 11. AND BE IT FURTHER ENACTED, That this Act may not be
14 interpreted to require or permit the establishment of a Family Division circuit judge in
15 any jurisdiction in which a Family Division is not established under this Act.

16 SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 January 1, 1999.