
By: **Delegate Frank**
Introduced and read first time: February 16, 1998
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Parenting Time**

3 FOR the purpose of altering provisions relating to family law by substituting the term
4 "parenting time" for the term "visitation".

5 BY repealing and reenacting, with amendments,
6 Article - Family Law
7 Section 1-201, 1-202, 4-506(d), 5-312(e), 5-525.2, 5-601, 5-1035(a),
8 7-103.2(a), 9-101, 9-101.1, 9-102, 9-105, 9-106, 9-201, 9-209(a), 9-210,
9 9-302, 10-317(d), 12-103(a), and 12-201(i)
10 Annotated Code of Maryland
11 (1991 Replacement Volume and 1997 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Family Law**

15 1-201.

16 (a) An equity court has jurisdiction over:

17 (1) adoption of a child, except for a child who is under the jurisdiction of
18 any juvenile court and who previously has been adjudicated to be a child in need of
19 assistance;

20 (2) alimony;

21 (3) annulment of a marriage;

22 (4) divorce;

23 (5) custody or guardianship of a child except for a child who is under the
24 jurisdiction of any juvenile court other than the juvenile court for Montgomery
25 County and who previously has been adjudicated to be a child in need of assistance;

1 (6) [visitation] PARENTING TIME of a child;

2 (7) legitimation of a child;

3 (8) paternity; and

4 (9) support of a child.

5 (b) In exercising its jurisdiction over the custody, guardianship, [visitation]
6 PARENTING TIME, or support of a child, an equity court may:

7 (1) direct who shall have the custody or guardianship of a child,
8 pendente lite or permanently;

9 (2) determine who shall have [visitation] PARENTING TIME rights to a
10 child;

11 (3) decide who shall be charged with the support of the child, pendente
12 lite or permanently;

13 (4) from time to time, set aside or modify its decree or order concerning
14 the child; or

15 (5) issue an injunction to protect a party to the action from physical
16 harm or harassment.

17 (c) This section does not take away or impair the jurisdiction of a juvenile
18 court or a criminal court with respect to the custody, guardianship, [visitation]
19 PARENTING TIME, and support of a child.

20 1-202.

21 In an action in which custody, [visitation] PARENTING TIME rights, or the
22 amount of support of a minor child is contested, the court may:

23 (1) appoint to represent the minor child counsel who may not represent
24 any party to the action; and

25 (2) impose against either or both parents counsel fees.

26 4-506.

27 (d) The protective order may include any or all of the following relief:

28 (1) order the respondent to refrain from abusing or threatening to abuse
29 any person eligible for relief;

30 (2) order the respondent to refrain from contacting, attempting to
31 contact, or harassing any person eligible for relief;

1 (3) order the respondent to refrain from entering the residence of any
2 person eligible for relief;

3 (4) where the person eligible for relief and the respondent are residing
4 together at the time of the abuse, order the respondent to vacate the home
5 immediately and award temporary use and possession of the home to the person
6 eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a
7 vulnerable adult, award temporary use and possession of the home to an adult living
8 in the home, provided that the court may not grant an order to vacate and award
9 temporary use and possession of the home to a nonspouse person eligible for relief
10 unless the name of the person eligible for relief appears on the lease or deed to the
11 home or the person eligible for relief has shared the home with the respondent for a
12 period of at least 90 days within 1 year before the filing of the petition;

13 (5) order the respondent to remain away from the place of employment,
14 school, or temporary residence of a person eligible for relief or home of other family
15 members;

16 (6) award temporary custody of a minor child of the respondent and a
17 person eligible for relief;

18 (7) establish temporary [visitation] PARENTING TIME with a minor
19 child of the respondent and a person eligible for relief on a basis which gives primary
20 consideration to the welfare of the minor child and the safety of any other person
21 eligible for relief. If the court finds that the safety of a person eligible for relief will be
22 jeopardized by unsupervised or unrestricted [visitation] PARENTING TIME, the court
23 shall condition or restrict [visitation] PARENTING TIME as to time, place, duration, or
24 supervision, or deny [visitation] PARENTING TIME entirely, as needed to guard the
25 safety of any person eligible for relief;

26 (8) award emergency family maintenance as necessary to support any
27 person eligible for relief to whom the respondent has a duty of support under this
28 article, including an immediate and continuing withholding order on all earnings of
29 the respondent in the amount of the ordered emergency family maintenance in
30 accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

31 (9) award temporary use and possession of a vehicle jointly owned by the
32 respondent and a person eligible for relief to the person eligible for relief if necessary
33 for the employment of the person eligible for relief or for the care of a minor child of
34 the respondent or a person eligible for relief;

35 (10) direct the respondent or any or all of the persons eligible for relief to
36 participate in professionally supervised counseling or a domestic violence program;

37 (11) order the respondent to surrender to law enforcement authorities any
38 firearm in the respondent's possession for the duration of the protective order; or

39 (12) order the respondent to pay filing fees and costs of a proceeding
40 under this subtitle.

1 5-312.

2 (e) After the adoption, if it is in the child's best interest, the adoptive parent
3 and a nonconsenting natural parent may agree to [visitation] PARENTING TIME
4 privileges between the child and the natural parent or siblings.

5 5-525.2.

6 (a) Any siblings who are separated due to a foster care or adoptive placement
7 may petition a court, including a juvenile court with jurisdiction over one or more of
8 the siblings, for reasonable sibling [visitation] PARENTING TIME rights.

9 (b) If a petitioner under this section petitions a court to issue a [visitation]
10 PARENTING TIME decree or to amend an order, the court:

11 (1) may hold a hearing to determine whether [visitation] PARENTING
12 TIME is in the best interest of the children;

13 (2) shall weigh the relative interests of each child and base its decision
14 on the best interests of the children promoting the greatest welfare and least harm to
15 the children; and

16 (3) may issue an appropriate order or decree.

17 5-601.

18 The Interstate Compact on the Placement of Children is hereby entered into by
19 this State with all states legally joining in the compact in the form substantially as
20 follows:

21 (1) Financial responsibility for any child placed pursuant to the
22 provisions of the Interstate Compact on the Placement of Children shall be
23 determined in accordance with the provisions of § 5-606 of this subtitle. However, in
24 the event of partial or complete default of performance thereunder, the provisions of
25 state laws fixing responsibility for the support of children also may be invoked.

26 (2) The "appropriate public authorities" as used in § 5-604 of the
27 Interstate Compact on the Placement of Children shall, with reference to this State,
28 mean the Department of Human Resources. This Department shall receive and act
29 with reference to notices required by § 5-604 of this subtitle.

30 (3) As used in § 5-606(a) of the Interstate Compact on the Placement of
31 Children, the phrase "appropriate authority in the receiving state" with reference to
32 this State shall mean the Department of Human Resources.

33 (4) The officers and agencies of this State and its subdivisions having
34 authority to place children are hereby empowered to enter into agreements with
35 appropriate officers or agencies of or in other party states pursuant to § 5-606(b) of
36 the Interstate Compact on the Placement of Children. Any such agreement which
37 contains a financial commitment or imposes a financial obligation on this State or

1 subdivision or agency thereof shall not be binding unless it has the approval in
2 writing of the Department of Human Resources.

3 (5) Any requirements for [visitation] PARENTING TIME, inspection or
4 supervision of children, homes, institutions or other agencies in another party state
5 which may apply shall be deemed to be met if performed pursuant to an agreement
6 entered into by appropriate officers or agencies of this State or a subdivision thereof
7 as contemplated by § 5-606(b) of the Interstate Compact on the Placement of
8 Children.

9 (6) Any provisions of law restricting out-of-state placement shall not
10 apply to placements made pursuant to the Interstate Compact on the Placement of
11 Children.

12 (7) Any court having jurisdiction to place delinquent children may place
13 such a child in an institution of or in another state pursuant to § 5-607 of the
14 Interstate Compact on the Placement of Children and shall retain jurisdiction as
15 provided in § 5-606 of this subtitle.

16 (8) As used in § 5-608 of the Interstate Compact on the Placement of
17 Children, the term "executive head" means the Governor. The Governor is hereby
18 authorized to appoint a compact administrator in accordance with the terms of §
19 5-608 of this subtitle.

20 (9) The definitions in § 1-101 of this article do not apply to the Interstate
21 Compact on the Placement of Children set forth in this subtitle.

22 5-1035.

23 (a) In an order passed under this subtitle, the court may include a provision,
24 directed to any party, regarding:

25 (1) custody of the child;

26 (2) [visitation] PARENTING TIME privileges with the child;

27 (3) giving bond; or

28 (4) any other matter that is related to the general welfare and best
29 interests of the child.

30 7-103.2.

31 (a) This section applies to an action for divorce in which issues of child
32 support, custody, or [visitation] PARENTING TIME are raised.

33 9-101.

34 (a) In any custody or [visitation] PARENTING TIME proceeding, if the court
35 has reasonable grounds to believe that a child has been abused or neglected by a party

1 to the proceeding, the court shall determine whether abuse or neglect is likely to occur
2 if custody or [visitation] PARENTING TIME rights are granted to the party.

3 (b) Unless the court specifically finds that there is no likelihood of further
4 child abuse or neglect by the party, the court shall deny custody or [visitation]
5 PARENTING TIME rights to that party, except that the court may approve a supervised
6 [visitation] PARENTING TIME arrangement that assures the safety and the
7 physiological, psychological, and emotional well-being of the child.

8 9-101.1.

9 (a) In this section, "abuse" has the meaning stated in § 4-501 of this article.

10 (b) In a custody or [visitation] PARENTING TIME proceeding, the court shall
11 consider, when deciding custody or [visitation] PARENTING TIME issues, evidence of
12 abuse by a party against:

13 (1) the other parent of the party's child;

14 (2) the party's spouse; or

15 (3) any child residing within the party's household, including a child
16 other than the child who is the subject of the custody or [visitation] PARENTING TIME
17 proceeding.

18 (c) If the court finds that a party has committed abuse against the other
19 parent of the party's child, the party's spouse, or any child residing within the party's
20 household, the court shall make arrangements for custody or [visitation] PARENTING
21 TIME that best protect:

22 (1) the child who is the subject of the proceeding; and

23 (2) the victim of the abuse.

24 9-102.

25 An equity court may:

26 (1) consider a petition for reasonable [visitation] PARENTING TIME of a
27 grandchild by a grandparent; and

28 (2) if the court finds it to be in the best interests of the child, grant
29 [visitation] PARENTING TIME rights to the grandparent.

30 9-105.

31 In any custody or [visitation] PARENTING TIME proceeding, if the court
32 determines that a party to a custody or [visitation] PARENTING TIME order has
33 unjustifiably denied or interfered with [visitation] PARENTING TIME granted by a
34 custody or [visitation] PARENTING TIME order, the court may, in addition to any

1 other remedy available to the court and in a manner consistent with the best interests
2 of the child, take any or all of the following actions:

3 (1) order that the [visitation] PARENTING TIME be rescheduled;

4 (2) modify the custody or [visitation] PARENTING TIME order to require
5 additional terms or conditions designed to ensure future compliance with the order; or

6 (3) assess costs or counsel fees against the party who has unjustifiably
7 denied or interfered with [visitation] PARENTING TIME rights.

8 9-106.

9 (a) (1) Except as provided in subsection (b) of this section, in any custody or
10 [visitation] PARENTING TIME proceeding the court may include as a condition of a
11 custody or [visitation] PARENTING TIME order a requirement that either party
12 provide advance written notice of at least 45 days to the court, the other party, or
13 both, of the intent to relocate the permanent residence of the party or the child either
14 within or outside the State.

15 (2) The court may prescribe the form and content of the notice
16 requirement.

17 (3) If the court orders that notice be given to the other party, a mailing of
18 the notice by certified mail, return receipt requested, to the last known address of the
19 other party shall be deemed sufficient to comply with the notice requirement.

20 (b) On a showing that notice would expose the child or either party to abuse as
21 defined in § 4-501 of this article or for any other good cause the court shall waive the
22 notice required by this section.

23 (c) If either party is required to relocate in less than the 45-day period
24 specified in the notice requirement, the court may consider as a defense to any action
25 brought for a violation of such notice requirement that:

26 (1) relocation was necessary due to financial or other extenuating
27 circumstances; and

28 (2) the required notice was given within a reasonable time after learning
29 of the necessity to relocate.

30 (d) The court may consider any violation of the notice requirement as a factor
31 in determining the merits of any subsequent proceeding involving custody or
32 [visitation] PARENTING TIME.

33 9-201.

34 (a) In this subtitle the following words have the meanings indicated.

35 (b) "Contestant" means a person, including a parent, who claims a right to
36 custody or [visitation] PARENTING TIME rights with respect to a child.

1 (c) (1) "Custody determination" means a judicial decision, order, or
2 instruction that relates to the custody of a child or to [visitation] PARENTING TIME
3 rights.

4 (2) "Custody determination" does not include a decision relating to child
5 support or any other monetary obligation of any person.

6 (d) (1) "Custody proceeding" includes any proceeding in which a custody
7 determination is 1 of several issues, such as an action for divorce or separation.

8 (2) "Custody proceeding" includes a child neglect or dependency
9 proceeding.

10 (e) (1) "Decree" or "custody decree" means a custody determination
11 contained in a judicial decree or order made in a custody proceeding.

12 (2) "Decree" or "custody decree" includes an initial decree and a
13 modification decree.

14 (f) "Home state" means the state in which the child, immediately preceding
15 the time involved, lived with the child's parents, a parent, or a person acting as
16 parent, for at least 6 consecutive months, and in the case of a child less than 6 months
17 old, the state in which the child lived from birth with any of the persons mentioned.
18 Periods of temporary absence of any of the named persons are counted as part of the
19 6-month or other period.

20 (g) "Initial decree" means the first custody decree concerning a particular
21 child.

22 (h) "Modification decree" means a custody decree that modifies or replaces a
23 prior decree, whether made by the court that rendered the prior decree or by another
24 court.

25 (i) "Physical custody" means actual possession and control of a child.

26 (j) "Person acting as parent" means a person, other than a parent, who has
27 physical custody of a child and who has either been awarded custody by a court or
28 claims a right to custody.

29 9-209.

30 (a) Every party in a custody proceeding in the party's first pleading or in an
31 affidavit attached to that pleading shall give information under oath as to the child's
32 present address, the places where the child has lived within the last 5 years, and the
33 names and present addresses of the persons with whom the child has lived during
34 that period. In this pleading or affidavit every party shall further declare under oath
35 whether:

1 (1) the party has participated as a party, witness, or in any other
2 capacity in any other litigation concerning the custody of the same child in this or any
3 other state;

4 (2) the party has information of any custody proceeding concerning the
5 child pending in a court of this or any other state; and

6 (3) the party knows of any person not a party to the proceedings who has
7 physical custody of the child or claims to have custody or [visitation] PARENTING
8 TIME rights with respect to the child.

9 9-210.

10 If the court learns from information furnished by the parties pursuant to §
11 9-209 of this subtitle or from other sources that a person not a party to the custody
12 proceeding has physical custody of the child or claims to have custody or [visitation]
13 PARENTING TIME rights with respect to the child, it shall order that person to be
14 joined as a party and to be notified of the pendency of the proceeding and of the
15 person's joinder as a party. If the person joined as a party is outside this State, the
16 person shall be served with process or otherwise notified in accordance with § 9-205
17 of this subtitle.

18 9-302.

19 (a) An equity court has jurisdiction over custody and [visitation] PARENTING
20 TIME of a child who is removed from this State by a parent of the child, if:

21 (1) the parents are separated or divorced and this State was:

22 (i) the marital domicile of the parents; or

23 (ii) the domicile in which the marriage contract was last performed;

24 (2) 1 of the parents was a resident of this State when the child was
25 removed and that parent continues to reside in this State; and

26 (3) the court obtains personal jurisdiction over the parent who removes
27 the child.

28 (b) This section does not affect any other basis of an equity court's jurisdiction
29 over custody and [visitation] PARENTING TIME of a child.

30 10-317.

31 (d) A responding tribunal of this State may not condition the payment of a
32 support order issued under this subtitle upon compliance by a party with provisions
33 for [visitation] PARENTING TIME.

1 12-103.

2 (a) The court may award to either party the costs and counsel fees that are
3 just and proper under all the circumstances in any case in which a person:

4 (1) applies for a decree or modification of a decree concerning the
5 custody, support, or [visitation] PARENTING TIME of a child of the parties; or

6 (2) files any form of proceeding:

7 (i) to recover arrearages of child support;

8 (ii) to enforce a decree of child support; or

9 (iii) to enforce a decree of custody or [visitation] PARENTING TIME.

10 12-201.

11 (i) (1) "Shared physical custody" means that each parent keeps the child or
12 children overnight for more than 35% of the year and that both parents contribute to
13 the expenses of the child or children in addition to the payment of child support.

14 (2) Subject to paragraph (1) of this subsection, the court may base a child
15 support award on shared physical custody:

16 (i) solely on the amount of [visitation] PARENTING TIME awarded;
17 and

18 (ii) regardless of whether joint custody has been granted.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1998.