



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

3 **Article - Family Law**

4 9-101.

5 (A) IN §§ 9-102 AND 9-103 OF THIS SUBTITLE THE FOLLOWING WORDS HAVE  
6 THE MEANINGS INDICATED.

7 (B) "JOINT LEGAL CUSTODY" MEANS THAT BOTH PARENTS OF A CHILD SHARE  
8 EQUALLY THE RIGHTS AND DUTIES TO MAKE LONG-RANGE DECISIONS INVOLVING  
9 MATTERS OF MAJOR SIGNIFICANCE IN THE LIFE AND WELFARE OF THE CHILD,  
10 INCLUDING DECISIONS CONCERNING THE CHILD'S:

11 (1) EDUCATION;

12 (2) RELIGIOUS TRAINING;

13 (3) DISCIPLINE; AND

14 (4) MEDICAL CARE.

15 (C) "JOINT PHYSICAL CUSTODY" MEANS RESIDENTIAL ARRANGEMENTS FOR A  
16 CHILD THAT PROVIDE FOR FREQUENT AND CONTINUING CONTACT BETWEEN THE  
17 CHILD AND EACH PARENT.

18 (D) "VISITATION" MEANS RESIDENTIAL ARRANGEMENTS FOR A CHILD THAT  
19 PROVIDE THAT A CHILD WHO RESIDES PRIMARILY WITH ONE PARENT SHALL HAVE  
20 CONTINUING RESIDENTIAL AND TELEPHONE CONTACT WITH THE OTHER PARENT  
21 ON A REGULAR BASIS.

22 9-102.

23 (A) IN AN INITIAL CUSTODY PROCEEDING, WHETHER PENDENTE LITE OR  
24 PERMANENT, INVOLVING THE PARENTS OF A MINOR CHILD, THERE IS A  
25 REBUTTABLE PRESUMPTION THAT AN AWARD OF JOINT LEGAL CUSTODY IS IN THE  
26 BEST INTERESTS OF THE CHILD.

27 (B) THE PRESUMPTION OF JOINT LEGAL CUSTODY UNDER SUBSECTION (A) OF  
28 THIS SECTION MAY BE REBUTTED BY EVIDENCE THAT AN AWARD OF JOINT LEGAL  
29 CUSTODY IS NOT IN THE BEST INTERESTS OF THE CHILD, INCLUDING EVIDENCE  
30 THAT A PARENT HAS:

31 (1) KNOWINGLY AND VOLUNTARILY ABANDONED THE CHILD;

32 (2) WITHOUT JUST CAUSE, INTENTIONALLY HIDDEN THE CHILD FROM  
33 THE OTHER PARENT;

1 (3) COMMITTED AN ACT OF CHILD ABUSE OR NEGLECT AS DEFINED IN §  
2 5-701 OF THIS ARTICLE; OR

3 (4) COMMITTED AN ACT OF ABUSE AS DEFINED IN § 4-501 OF THIS  
4 ARTICLE.

5 (C) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IF THE  
6 COURT AWARDS JOINT LEGAL CUSTODY, THE ORDER SHALL PROVIDE FOR  
7 RESIDENTIAL ARRANGEMENTS FOR THE CHILD.

8 (2) IN DETERMINING THE RESIDENTIAL ARRANGEMENTS FOR THE  
9 CHILD, THE COURT MAY PROVIDE FOR:

10 (I) JOINT PHYSICAL CUSTODY; OR

11 (II) VISITATION.

12 (3) IN DETERMINING THE RESIDENTIAL ARRANGEMENTS FOR THE  
13 CHILD, THE COURT SHALL:

14 (I) CONSIDER THE BEST INTERESTS OF THE CHILD; AND

15 (II) GIVE DUE CONSIDERATION TO ANY RESIDENTIAL  
16 ARRANGEMENTS PROPOSED BY THE PARENTS OF THE CHILD.

17 (4) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE COURT  
18 TO AWARD JOINT LEGAL CUSTODY OF A CHILD WITHOUT PROVIDING FOR JOINT  
19 PHYSICAL CUSTODY OF THE CHILD.

20 (D) AN AWARD OF JOINT LEGAL CUSTODY DOES NOT AFFECT THE  
21 DETERMINATION BY THE COURT REGARDING THE DUTY TO PROVIDE FOR THE  
22 FINANCIAL SUPPORT OF THE CHILD UNDER TITLE 12 OF THIS ARTICLE.

23 (E) AN AWARD OF JOINT LEGAL CUSTODY DOES NOT AFFECT THE  
24 DETERMINATION BY THE COURT REGARDING THE USE AND POSSESSION OF THE  
25 FAMILY HOME AND FAMILY USE PERSONAL PROPERTY UNDER §§ 8-207 THROUGH  
26 8-213 OF THIS ARTICLE.

27 9-103.

28 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN AN INITIAL CUSTODY  
29 PROCEEDING, WHETHER PENDENTE LITE OR PERMANENT, INVOLVING THE PARENTS  
30 OF A MINOR CHILD, IF THE COURT DOES NOT AWARD JOINT LEGAL CUSTODY UNDER  
31 § 9-102 OF THIS SUBTITLE, THE COURT SHALL AWARD SOLE CUSTODY TO ONE OF THE  
32 PARENTS IN ACCORDANCE WITH THE BEST INTERESTS OF THE CHILD.

33 (B) IN DETERMINING AN AWARD OF SOLE CUSTODY THAT WOULD BE IN THE  
34 BEST INTERESTS OF THE CHILD, THE COURT SHALL CONSIDER THE FOLLOWING  
35 FACTORS:

1 (1) THE GENERAL FITNESS, CHARACTER, AND REPUTATION OF THE  
2 PARENTS OF THE CHILD;

3 (2) THE PREFERENCES OF THE PARENTS OF THE CHILD AND ANY  
4 AGREEMENTS MADE BETWEEN THE PARENTS;

5 (3) THE PREFERENCE OF THE CHILD IF THE CHILD IS OF SUFFICIENT  
6 AGE AND CAPACITY TO FORM A RATIONAL JUDGMENT;

7 (4) THE AGE, SEX, AND HEALTH OF THE CHILD;

8 (5) THE POTENTIALITY OF MAINTAINING NATURAL FAMILY  
9 RELATIONSHIPS;

10 (6) THE WILLINGNESS OF EACH PARENT TO RESPECT THE  
11 RELATIONSHIP OF THE CHILD WITH THE OTHER PARENT;

12 (7) WHETHER EITHER PARENT HAS VOLUNTARILY ABANDONED THE  
13 CHILD;

14 (8) WHETHER EITHER PARENT HAS, WITHOUT JUST CAUSE,  
15 INTENTIONALLY HIDDEN THE CHILD FROM THE OTHER PARENT;

16 (9) WHETHER EITHER PARENT HAS COMMITTED AN ACT OF CHILD  
17 ABUSE OR NEGLECT AS DEFINED IN § 5-701 OF THIS ARTICLE;

18 (10) WHETHER EITHER PARENT HAS COMMITTED AN ACT OF ABUSE AS  
19 DEFINED IN § 4-501 OF THIS ARTICLE; AND

20 (11) ANY OTHER FACTOR THAT THE COURT CONSIDERS NECESSARY OR  
21 APPROPRIATE IN ORDER TO REACH A DETERMINATION REGARDING SOLE CUSTODY  
22 THAT WOULD BE IN THE BEST INTERESTS OF THE CHILD.

23 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE COURT  
24 AWARDS SOLE CUSTODY TO ONE PARENT, THE ORDER SHALL PROVIDE FOR  
25 VISITATION.

26 (2) IN DETERMINING VISITATION FOR THE CHILD, THE COURT SHALL:

27 (I) CONSIDER THE BEST INTERESTS OF THE CHILD; AND

28 (II) GIVE DUE CONSIDERATION TO ANY ARRANGEMENTS  
29 PROPOSED BY THE PARENTS OF THE CHILD.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be  
31 considered a material change of circumstances for purposes of modifying child custody  
32 orders issued before the effective date of this Act.

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall apply only  
34 to initial custody cases filed on or after the effective date of this Act and may not be

1 applied or interpreted to have any effect on or application to cases for modification of  
2 custody filed after an order for permanent custody has been issued.

3 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take  
4 effect October 1, 1998.