Unofficial Copy D4 1999 Regular Session 9lr1115

# By: Delegates Montague, Dembrow, O'Donnell, Burns, Palumbo, K. Kelly, Valderrama, Riley, and Dypski

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

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#### A BILL ENTITLED

#### 1 AN ACT concerning

### 2 Family Law - Child Custody - Best Interest of the Child

- 3 FOR the purpose of authorizing a court to award certain child custody arrangements;
- 4 requiring a court to consider the best interest of the child in making a custody or
- 5 visitation determination; requiring a court to examine certain factors when
- 6 considering the best interest of the child; requiring a court to state on the record
- 7 the basis for an award of child custody or visitation; defining certain terms;
- 8 providing for the application of this Act; and generally relating to child custody
- 9 and visitation.
- 10 BY renumbering
- 11 Article Family Law
- 12 Section 9-101 through 9-106, respectively
- to be Section 9-102 through 9-108, respectively
- 14 Annotated Code of Maryland
- 15 (1999 Replacement Volume)
- 16 BY adding to
- 17 Article Family Law
- 18 Section 9-101
- 19 Annotated Code of Maryland
- 20 (1999 Replacement Volume)
- 21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 22 MARYLAND, That Section(s) 9-101 through 9-106, respectively, of Article Family
- 23 Law of the Annotated Code of Maryland be renumbered to be Section(s) 9-102
- 24 through 9-108, respectively.
- 25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
- 26 read as follows:

#### 1 **Article - Family Law** 2 9-101. IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS 3 (A) (1) 4 INDICATED. "JOINT LEGAL CUSTODY" MEANS THAT BOTH PARENTS OF A CHILD 5 6 SHARE EQUALLY THE RIGHTS AND OBLIGATIONS TO MAKE LONG-RANGE DECISIONS 7 INVOLVING MATTERS OF MAJOR SIGNIFICANCE IN THE LIFE AND WELFARE OF THE 8 CHILD, INCLUDING DECISIONS REGARDING THE CHILD'S: 9 (I) **EDUCATION:** 10 (II)RELIGIOUS TRAINING AND PRACTICE; 11 (III)DISCIPLINE; AND 12 (IV) MEDICAL CARE. "JOINT PHYSICAL CUSTODY" MEANS THAT EACH PARENT HAS THE 13 14 RIGHT AND OBLIGATION TO PROVIDE A HOME FOR THE CHILD AND TO MAKE THE 15 DAY-TO-DAY DECISIONS REQUIRED DURING THE PERIOD OF PHYSICAL CUSTODY. "SOLE LEGAL CUSTODY" MEANS THAT ONLY ONE OF THE PARENTS 16 17 OF THE CHILD HAS THE RIGHT AND OBLIGATION TO MAKE THE LONG-RANGE 18 DECISIONS CONCERNING THE CHILD SPECIFIED IN PARAGRAPH (2) OF THIS 19 SUBSECTION. "SOLE PHYSICAL CUSTODY" MEANS THAT ONLY ONE OF THE 20 (5)21 PARENTS HAS THE RIGHT AND OBLIGATION TO PROVIDE A HOME FOR THE CHILD 22 AND TO MAKE THE DAY-TO-DAY DECISIONS REQUIRED DURING THE PERIOD OF 23 PHYSICAL CUSTODY. "VISITATION" MEANS THE RIGHT OF A PARENT TO HAVE ACCESS TO A 25 CHILD AND TO MAKE THE DAY-TO-DAY DECISIONS REQUIRED DURING THE PERIOD 26 OF ACCESS. SUBJECT TO THE PROVISIONS OF §§ 9-102 AND 9-103 OF THIS SUBTITLE, IN 27 28 A CUSTODY PROCEEDING INVOLVING THE PARENTS OF A MINOR CHILD, THE COURT 29 MAY AWARD JOINT PHYSICAL CUSTODY, JOINT LEGAL CUSTODY, SOLE PHYSICAL 30 CUSTODY, SOLE LEGAL CUSTODY, VISITATION, OR ANY COMBINATION THEREOF. IN MAKING A CHILD CUSTODY OR VISITATION DETERMINATION. THE 31 32 COURT SHALL CONSIDER THE BEST INTEREST OF THE CHILD. IN CONSIDERING THE BEST INTEREST OF THE CHILD, THE COURT 34 SHALL EXAMINE AND WEIGH EACH OF THE FOLLOWING FACTORS: THE HISTORY OF PARENTAL INVOLVEMENT WITH THE CHILD 35 (I)

36 AND STRENGTH OF THE RELATIONSHIP OF THE CHILD WITH EACH PARENT;

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1 2	WELFARE AND DE	(II) VELOPN	THE CONTRIBUTIONS OF EACH PARENT TO THE SOCIAL MENT OF THE CHILD;
3		(III)	THE PSYCHOLOGICAL FITNESS OF EACH PARENT;
4		(IV)	THE CHARACTER AND REPUTATION OF EACH PARENT;
5 6	BETWEEN THEM;	(V)	THE WISHES OF THE PARENTS AND ANY AGREEMENT MADE
7 8	RELATIONS;	(VI)	THE POTENTIAL FOR MAINTAINING NATURAL FAMILY
9 10	AFFECTING THE C	(VII) CHILD'S	THE ABILITY OF THE PARENTS TO REACH SHARED DECISIONS WELFARE;
11 12	REQUESTING A CU		THE SINCERITY AND MOTIVATION OF A PARENT IN ARRANGEMENT;
13 14	SUFFICIENT AGE	(IX) AND CA	THE PREFERENCE OF THE CHILD, IF THE CHILD IS OF PACITY TO EXPRESS A PREFERENCE;
15		(X)	THE AGE, HEALTH, AND SEX OF THE CHILD;
16		(XI)	ANY SPECIAL NEEDS OF THE CHILD;
17 18	THEIR RELATIONS	(XII) SHIPS W	THE NUMBER OF CHILDREN IN THE FAMILY INVOLVED AND ITH ONE ANOTHER;
19 20	FOR VISITATION;	(XIII)	THE RESIDENCES OF THE PARENTS AND THE OPPORTUNITY
21 22	THE CHILD'S SOCI	(XIV) AL AND	THE POTENTIAL IMPACT OF JOINT PHYSICAL CUSTODY UPON ACADEMIC LIFE;
23 24	PARENTS;	(XV)	THE GEOGRAPHIC PROXIMITY OF THE HOMES OF THE
25		(XVI)	THE DEMANDS OF PARENTAL EMPLOYMENT;
26		(XVII)	THE FINANCIAL STATUS OF THE PARENTS;
27		(XVIII)	ANY IMPACT ON STATE OR FEDERAL ASSISTANCE;
28 29	A PARENT WHO IS	(XIX) S SEEKIN	THE LENGTH OF TIME THE CHILD HAS BEEN SEPARATED FROM NG CUSTODY;
30 31		(XX) OR SURF	THE EFFECT ON THE CHILD OF ANY PRIOR VOLUNTARY

- 1 (XXI) ANY OTHER FACTOR THAT IS RELEVANT TO A 2 CONSIDERATION OF THE BEST INTEREST OF THE CHILD.
- 3 (D) AFTER THE COURT MAKES A CHILD CUSTODY OR VISITATION AWARD
- 4 UNDER THIS SECTION, THE COURT SHALL STATE ON THE RECORD THE BASIS FOR
- 5 THE AWARD.
- 6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply only
- 7 to cases filed on or after the effective date of this Act.
- 8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 9 October 1, 1999.