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By: **Delegates Montague, Amedori, and Vallario**  
Introduced and read first time: February 8, 2002  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Best Interests of Children Act of 2002**

3 FOR the purpose of establishing general procedures for allocation of custodial and  
4 visitation responsibilities and decision making authority for a minor child when  
5 the parents do not live together; requiring the court to order certain parenting  
6 plans that are agreed to by the parents except under certain circumstances;  
7 requiring the court to inform parents about how to prepare a parenting plan;  
8 establishing the process, requirements, and criteria for the filing of and  
9 amendment to a temporary parenting plan; establishing the process,  
10 requirements, and criteria for the filing of a permanent parenting plan and for  
11 allocation by the court of custodial or visitation responsibility and decision  
12 making authority; requiring the court is develop a process to identify cases  
13 where there is evidence of certain abuse or neglect; providing limitations on  
14 allocation of responsibility under a parenting plan upon the court's  
15 determination that certain circumstances exist; creating an exception to a  
16 certain prohibition and altering the burden of proof for parents found to have  
17 engaged in certain behavior; authorizing the court to impose certain limits if  
18 certain circumstances are found to exist; authorizing the court to order certain  
19 investigations and reports; authorizing the use of a certain investigator's report  
20 as evidence in a hearing and specifying certain procedures to be followed by the  
21 investigator; limiting the ordering of certain services and tests unless there is no  
22 cost or a reasonable cost to the parties; authorizing the court appointment of a  
23 guardian ad litem or a lawyer to represent a child under certain circumstances;  
24 requiring certain persons to provide information to the court; authorizing a  
25 court to conduct a certain interview of a child; establishing the procedures,  
26 requirements, and criteria for modification of a parenting plan upon a showing  
27 of changed circumstances or without a showing of changed circumstances;  
28 establishing procedures for enforcement of parenting plans; providing that each  
29 parent has full and equal access to certain records concerning a child; stating  
30 the intent of the General Assembly and the objectives of this Act; requiring the  
31 publisher of the Annotated Code of Maryland, in consultation with the  
32 Department of Legislative Services, to correct cross-references that are  
33 rendered incorrect by this Act; providing for the construction and application of  
34 this Act; providing for a delayed effective date; and generally relating to the  
35 allocation of custodial and visitation responsibilities and decision making

1 authority in the best interests of a minor child when the parents do not live  
2 together.

3 BY renumbering

4 Article - Family Law

5 Section 9-101, 9-101.1, and 9-102 through 9-106 and the subtitle "Subtitle 1.

6 In General"; 9-201 through 9-224 and the subtitle "Subtitle 2. Maryland

7 Uniform Child Custody Jurisdiction Act"; 9-301 through 9-307 and the

8 subtitle "Subtitle 3. Removal of Child From State; Child Abduction"; 9-401

9 through 9-403 and the subtitle "Subtitle 4. Missing Children", respectively

10 to be Section 9-201 through 9-207 and the subtitle "Subtitle 2. In General";

11 9-301 through 9-324 and the subtitle "Subtitle 3. Maryland Uniform Child

12 Custody Jurisdiction Act"; 9-401 through 9-407 and the subtitle "Subtitle

13 4. Removal of Child From State; Child Abduction"; 9-501 through 9-503

14 and the subtitle "Subtitle 5. Missing Children", respectively

15 Annotated Code of Maryland

16 (1999 Replacement Volume and 2001 Supplement)

17 BY adding to

18 Article - Family Law

19 Section 9-101 through 9-117, inclusive, to be under the new subtitle "Subtitle 1.

20 Allocation of Custodial and Visitation Responsibility and Decision Making

21 Authority for Children"

22 Annotated Code of Maryland

23 (1999 Replacement Volume and 2001 Supplement)

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

25 MARYLAND, That Section(s) 9-101, 9-101.1, and 9-102 through 9-106 and the

26 subtitle "Subtitle 1. In General"; 9-201 through 9-224 and the subtitle "Subtitle 2.

27 Maryland Uniform Child Custody Jurisdiction Act"; 9-301 through 9-307 and the

28 subtitle "Subtitle 3. Removal of Child From State; Child Abduction"; 9-401 through

29 9-403 and the subtitle "Subtitle 4. Missing Children", respectively, of Article - Family

30 Law of the Annotated Code of Maryland be renumbered to be Section(s) 9-201

31 through 9-207 and the subtitle "Subtitle 2. In General"; 9-301 through 9-324 and the

32 subtitle "Subtitle 3. Maryland Uniform Child Custody Jurisdiction Act"; 9-401

33 through 9-407 and the subtitle "Subtitle 4. Removal of Child From State; Child

34 Abduction"; 9-501 through 9-503 and the subtitle "Subtitle 5. Missing Children",

35 respectively.

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

37 read as follows:

**Article - Family Law**SUBTITLE 1. ALLOCATION OF CUSTODIAL AND VISITATION RESPONSIBILITY AND  
DECISION MAKING AUTHORITY FOR CHILDREN.

## PART I. OBJECTIVES AND PARTIES.

9-101.

(A) THIS SUBTITLE SETS FORTH PRINCIPLES GOVERNING THE ALLOCATION  
OF CUSTODIAL AND VISITATION RESPONSIBILITY AND DECISION MAKING  
AUTHORITY FOR A MINOR CHILD WHEN THE PARENTS DO NOT LIVE TOGETHER.

(B) (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS IN THE  
PUBLIC INTEREST OF THE STATE TO ENSURE THAT THE BEST INTERESTS OF  
CHILDREN IS THE COURT'S PRIMARY CONCERN IN ALLOCATING CUSTODIAL AND  
VISITATION RESPONSIBILITY AND DECISION MAKING AUTHORITY BETWEEN  
PARENTS WHO DO NOT LIVE TOGETHER.

(2) IN FURTHERANCE OF THE PUBLIC INTEREST, THE GENERAL  
ASSEMBLY DECLARES THAT A CHILD'S BEST INTEREST WILL BE SERVED BY:

(I) ASSURING THAT MINOR CHILDREN HAVE FREQUENT AND  
CONTINUING CONTACT WITH PARENTS WHO HAVE SHOWN THE ABILITY TO ACT IN  
THE BEST INTEREST OF THEIR CHILDREN; AND

(II) ENCOURAGING PARENTS TO SHARE IN THE RIGHTS AND  
RESPONSIBILITIES OF REARING CHILDREN AFTER THE PARENTS HAVE SEPARATED  
OR DIVORCED.

9-102.

(A) THE GENERAL ASSEMBLY INTENDS THAT THE PRIMARY OBJECTIVE OF  
THIS SUBTITLE BE TO SERVE THE CHILD'S BEST INTERESTS, BY FACILITATING:

(1) THE STABILITY OF THE CHILD;

(2) PARENTAL PLANNING AND AGREEMENT ABOUT THE CHILD'S  
CUSTODY AND VISITATION ARRANGEMENTS AND UPBRINGING;

(3) CONTINUITY OF EXISTING PARENT-CHILD ATTACHMENTS;

(4) MEANINGFUL CONTACT BETWEEN THE CHILD AND EACH PARENT;

(5) CARETAKING RELATIONSHIPS BY ADULTS WHO LOVE THE CHILD,  
KNOW HOW TO PROVIDE FOR THE CHILD'S NEEDS, AND WHO PLACE A HIGH PRIORITY  
ON DOING SO;

(6) SECURITY FROM THE CHILD'S EXPOSURE TO PHYSICAL OR  
EMOTIONAL HARM; AND

1 (7) EXPEDITIOUS, PREDICTABLE DECISION MAKING AND AVOIDANCE OF  
2 PROLONGED UNCERTAINTY WITH RESPECT TO ARRANGEMENTS FOR THE CHILD'S  
3 CARE AND CONTROL.

4 (B) THE GENERAL ASSEMBLY INTENDS THAT A FURTHER OBJECTIVE OF THIS  
5 SUBTITLE IS TO ACHIEVE FAIRNESS BETWEEN THE PARENTS.

6 9-103.

7 (A) PERSONS WHO HAVE A RIGHT TO BE NOTIFIED OF AND PARTICIPATE AS A  
8 PARTY IN AN ACTION FILED BY ANOTHER ARE:

9 (1) AN INDIVIDUAL ESTABLISHED AS THE LEGAL PARENT OF A CHILD,  
10 BY LAW, ON THE BASIS OF BIOLOGICAL RELATIONSHIP, PRESUMED BIOLOGICAL  
11 RELATIONSHIP, LEGAL ADOPTION, OR OTHER RECOGNIZED GROUNDS;

12 (2) AN ADULT ALLOCATED CUSTODIAL AND VISITATION  
13 RESPONSIBILITY OR DECISION MAKING AUTHORITY UNDER A PARENTING PLAN  
14 REGARDING THE CHILD THAT IS THEN IN EFFECT; AND

15 (3) PERSONS WHO WERE PARTIES TO A PRIOR ORDER ESTABLISHING  
16 CUSTODY AND VISITATION OR WHO, UNDER A PARENTING PLAN, WERE ALLOCATED  
17 CUSTODIAL AND VISITATION RESPONSIBILITY OR DECISION MAKING AUTHORITY.

18 (B) (1) THE COURT MAY, IN EXCEPTIONAL CIRCUMSTANCES, GRANT  
19 PERMISSION TO INTERVENE TO OTHER PERSONS OR PUBLIC AGENCIES WHOSE  
20 PARTICIPATION IN THE PROCEEDINGS UNDER THIS TITLE THE COURT DETERMINES  
21 IS LIKELY TO SERVE THE CHILD'S BEST INTERESTS.

22 (2) THE COURT MAY PLACE LIMITATIONS ON PARTICIPATION BY THE  
23 INTERVENING PARTY AS THE COURT DETERMINES TO BE APPROPRIATE.

24 (3) AN INTERVENING PERSON OR PUBLIC AGENCY DOES NOT HAVE  
25 STANDING TO INITIATE AN ACTION UNDER THIS SUBTITLE.

26 PART II. PARENTING PLANS.

27 9-104.

28 (A) IF THE PARENTS AGREE TO ONE OR MORE PROVISIONS OF A PARENTING  
29 PLAN, THE COURT SHALL SO ORDER, UNLESS IT MAKES SPECIFIC FINDINGS THAT:

30 (1) THE AGREEMENT IS NOT KNOWING OR VOLUNTARY; OR

31 (2) THE PLAN WOULD BE HARMFUL TO THE CHILD.

32 (B) THE COURT MAY CONDUCT AN EVIDENTIARY HEARING TO DETERMINE  
33 WHETHER THERE IS A FACTUAL BASIS FOR A FINDING UNDER SUBSECTION (A)(1) OR  
34 (2) OF THIS SECTION.

1 (C) WHEN THERE IS CREDIBLE INFORMATION THAT CHILD ABUSE, AS  
2 DEFINED IN § 5-701 OF THIS ARTICLE, HAS OCCURRED:

3 (1) A HEARING IS MANDATORY; AND

4 (2) IF THE COURT DETERMINES THAT ABUSE HAS OCCURRED,  
5 APPROPRIATE PROTECTIVE MEASURES SHALL BE ORDERED.

6 (D) IF AN AGREEMENT, IN WHOLE OR IN PART, IS NOT ACCEPTED BY THE  
7 COURT UNDER THE STANDARDS SET FORTH IN SUBSECTION (A) OF THIS SECTION,  
8 THE COURT SHALL ALLOW THE PARENTS THE OPPORTUNITY TO NEGOTIATE  
9 ANOTHER AGREEMENT.

10 (E) THE COURT SHALL INFORM THE PARENTS ABOUT HOW TO PREPARE A  
11 PARENTING PLAN.

12 9-105.

13 (A) (1) A PARENT SEEKING A TEMPORARY ORDER RELATING TO PARENTING  
14 SHALL FILE AND SERVE A PROPOSED TEMPORARY PARENTING PLAN BY MOTION.

15 (2) THE OTHER PARENT, IF CONTESTING THE PROPOSED TEMPORARY  
16 PARENTING PLAN, SHALL FILE AND SERVE A RESPONSIVE PROPOSED PARENTING  
17 PLAN.

18 (3) EITHER PARENT MAY MOVE TO HAVE A PROPOSED TEMPORARY  
19 PARENTING PLAN ENTERED AS PART OF A TEMPORARY ORDER.

20 (4) THE PARENTS MAY ENTER AN AGREED TEMPORARY PARENTING  
21 PLAN AT ANY TIME AS PART OF A TEMPORARY ORDER.

22 (5) THE PROPOSED TEMPORARY PARENTING PLAN MAY BE SUPPORTED  
23 BY RELEVANT EVIDENCE AND SHALL BE VERIFIED AND INCLUDE THE FOLLOWING:

24 (I) THE NAME, ADDRESS, AND LENGTH OF RESIDENCE WITH THE  
25 PERSON OR PERSONS WITH WHOM THE CHILD HAS LIVED FOR THE PRECEDING 12  
26 MONTHS;

27 (II) THE PERFORMANCE BY EACH PARENT DURING THE LAST 12  
28 MONTHS OF THE PARENTING FUNCTIONS RELATING TO THE DAILY NEEDS OF THE  
29 CHILD;

30 (III) THE PARENTS' WORK AND CHILD CARE SCHEDULES FOR THE  
31 PRECEDING 12 MONTHS;

32 (IV) THE PARENTS' CURRENT WORK AND CHILD CARE SCHEDULES;  
33 AND

34 (V) ANY OF THE CIRCUMSTANCES SET FORTH IN § 9-110 OF THIS  
35 SUBTITLE THAT ARE LIKELY TO POSE A SERIOUS RISK TO THE CHILD AND THAT

1 WARRANT LIMITATION ON THE AWARD TO A PARENT OF TEMPORARY CUSTODY OR  
2 VISITATION WITH THE CHILD PENDING ENTRY OF A PERMANENT PARENTING PLAN.

3 (B) AT THE HEARING, THE COURT SHALL ENTER A TEMPORARY PARENTING  
4 ORDER INCORPORATING A TEMPORARY PARENTING PLAN THAT INCLUDES:

5 (1) A SCHEDULE FOR THE CHILD'S TIME WITH EACH PARENT WHEN  
6 APPROPRIATE;

7 (2) DESIGNATION OF A TEMPORARY RESIDENCE FOR THE CHILD;

8 (3) ALLOCATION OF DECISION MAKING AUTHORITY, IF ANY;

9 (4) PROVISIONS FOR TEMPORARY SUPPORT FOR THE CHILD; AND

10 (5) RESTRAINING ORDERS, IF APPLICABLE.

11 (C) ABSENT ALLOCATION OF DECISION MAKING AUTHORITY UNDER  
12 SUBSECTION (B) OF THIS SECTION, CONSISTENT WITH § 9-109 OF THIS SUBTITLE,  
13 NEITHER PARTY MAY MAKE ANY DECISION FOR THE CHILD OTHER THAN DECISIONS  
14 RELATING TO DAY-TO-DAY OR EMERGENCY CARE OF THE CHILD, THAT SHALL BE  
15 MADE BY THE PARTY WHO IS PRESENT WITH THE CHILD.

16 (D) A PARENT MAY MAKE A MOTION FOR AN ORDER TO SHOW CAUSE AND THE  
17 COURT MAY ENTER A TEMPORARY ORDER, INCLUDING A TEMPORARY PARENTING  
18 PLAN, UPON A SHOWING OF NECESSITY.

19 (E) A PARENT MAY MOVE FOR AMENDMENT OF A TEMPORARY PARENTING  
20 PLAN, AND THE COURT MAY ORDER AMENDMENT TO THE TEMPORARY PARENTING  
21 PLAN, IF THE AMENDMENT CONFORMS TO THE LIMITATIONS OF § 9-110 OF THIS  
22 SUBTITLE AND IS IN THE BEST INTEREST OF THE CHILD.

23 9-106.

24 (A) AFTER CONSIDERING THE PROPOSED TEMPORARY PARENTING PLAN  
25 FILED UNDER § 9-105 OF THIS SUBTITLE AND OTHER RELEVANT EVIDENCE  
26 PRESENTED, THE COURT SHALL MAKE A TEMPORARY PARENTING PLAN THAT IS IN  
27 THE BEST INTEREST OF THE CHILD.

28 (B) IN MAKING THE DETERMINATION REQUIRED UNDER SUBSECTION (A) OF  
29 THIS SECTION, THE COURT SHALL GIVE PARTICULAR CONSIDERATION TO:

30 (1) WHICH PARENT HAS TAKEN GREATER RESPONSIBILITY DURING THE  
31 LAST 12 MONTHS FOR PERFORMING CARETAKING FUNCTIONS RELATING TO THE  
32 DAILY NEEDS OF THE CHILD; AND

33 (2) WHICH PARENTING ARRANGEMENTS WILL CAUSE THE LEAST  
34 DISRUPTION TO THE CHILD'S EMOTIONAL STABILITY WHILE THE ACTION IS  
35 PENDING.

1 (C) THE COURT SHALL ALSO CONSIDER THE FACTORS USED TO DETERMINE  
2 CUSTODY AND VISITATION PROVISIONS IN THE PERMANENT PARENTING PLAN.

3 (D) UPON CREDIBLE EVIDENCE OF ONE OR MORE OF THE CIRCUMSTANCES  
4 SET FORTH IN § 9-110 (A) OF THIS SUBTITLE, THE COURT SHALL ISSUE A TEMPORARY  
5 ORDER LIMITING OR DENYING ACCESS TO THE CHILD AS REQUIRED BY THAT  
6 SECTION, IN ORDER TO PROTECT THE CHILD OR THE OTHER PARTY, PENDING  
7 ADJUDICATION OF THE UNDERLYING FACTS.

8 (E) EXPEDITED PROCEDURES SHALL BE INSTITUTED TO FACILITATE THE  
9 PROMPT ISSUANCE OF A PARENTING PLAN.

10 9-107.

11 (A) A PARTY OR PARTIES FILING JOINTLY, SEEKING A JUDICIAL ALLOCATION  
12 OF CUSTODIAL AND VISITATION RESPONSIBILITY OR DECISION MAKING AUTHORITY  
13 UNDER THIS ARTICLE SHALL FILE A PROPOSED PARENTING PLAN WITH THE COURT  
14 THAT:

15 (1) SHALL BE VERIFIED; AND

16 (2) SHALL STATE, TO THE EXTENT KNOWN OR REASONABLY  
17 DISCOVERABLE BY THE FILING PARTY OR PARTIES:

18 (I) THE NAME, ADDRESS, AND LENGTH OF RESIDENCE OF EACH  
19 ADULT THAT THE CHILD HAS LIVED WITH FOR 1 YEAR OR MORE, OR IN THE CASE OF  
20 A CHILD LESS THAN 1 YEAR OLD, EACH ADULT THAT THE CHILD HAS LIVED WITH  
21 SINCE THE CHILD'S BIRTH;

22 (II) THE NAME AND ADDRESS OF THE CHILD'S PARENTS AND EACH  
23 INDIVIDUAL WITH STANDING TO PARTICIPATE IN THE ACTION UNDER § 9-103 OF  
24 THIS SUBTITLE;

25 (III) A DESCRIPTION OF THE ALLOCATION OF CARETAKING AND  
26 OTHER PARENTING RESPONSIBILITIES PERFORMED BY EACH PERSON NAMED IN  
27 ITEMS (I) AND (II) OF THIS PARAGRAPH DURING THE 36 MONTHS PRECEDING THE  
28 FILING OF AN ACTION GOVERNED BY THIS SUBTITLE;

29 (IV) A DESCRIPTION OF THE WORK AND CHILD CARE SCHEDULES  
30 OF A PERSON SEEKING AN ALLOCATION OF CUSTODY OR VISITATION, AND ANY  
31 EXPECTED CHANGES TO THESE SCHEDULES IN THE NEAR FUTURE;

32 (V) A DESCRIPTION OF THE CHILD'S SCHOOL AND  
33 EXTRACURRICULAR ACTIVITIES;

34 (VI) A DESCRIPTION OF ANY OF THE LIMITING FACTORS AS  
35 DESCRIBED IN § 9-110 OF THIS SUBTITLE THAT ARE PRESENT, INCLUDING ANY  
36 RESTRAINING OR OTHER ORDERS AGAINST EITHER PARENT TO PREVENT DOMESTIC  
37 OR FAMILY VIOLENCE, BY CASE NUMBER AND JURISDICTION;

1 (VII) REQUIRED FINANCIAL INFORMATION; AND

2 (VIII) A DESCRIPTION OF THE KNOWN AREAS OF AGREEMENT AND  
3 DISAGREEMENT WITH ANY OTHER PARENTING PLAN SUBMITTED IN THE CASE.

4 (B) THE COURT SHALL MAINTAIN THE CONFIDENTIALITY OF ANY  
5 INFORMATION REQUIRED TO BE FILED UNDER SUBSECTION (A) OF THIS SECTION IF  
6 THE PERSON GIVING THAT INFORMATION HAS A REASONABLE FEAR OF DOMESTIC  
7 ABUSE AND DISCLOSURE OF THE INFORMATION WOULD INCREASE THAT FEAR.

8 (C) (1) THE COURT SHALL DEVELOP A PROCESS TO IDENTIFY CASES IN  
9 WHICH THERE IS CREDIBLE INFORMATION THAT ABUSE OR NEGLECT OF A CHILD, AS  
10 DEFINED IN § 5-701 OF THIS ARTICLE, OR DOMESTIC VIOLENCE OR ABUSE, AS  
11 DEFINED IN TITLE 4, SUBTITLE 5 OF THIS ARTICLE, HAS OCCURRED.

12 (2) THE PROCESS SHALL INCLUDE:

13 (I) ASSISTANCE FOR POSSIBLE VICTIMS OF DOMESTIC ABUSE AND  
14 REFERRAL TO APPROPRIATE RESOURCES FOR SAFE SHELTER, COUNSELING, AND  
15 SAFETY PLANNING;

16 (II) PROVISION OF INFORMATION REGARDING THE POTENTIAL  
17 IMPACT OF DOMESTIC ABUSE ON CHILDREN;

18 (III) PROVISION OF INFORMATION REGARDING CIVIL AND CRIMINAL  
19 REMEDIES FOR DOMESTIC ABUSE; AND

20 (IV) A SYSTEM FOR ENSURING THAT JOINTLY SUBMITTED  
21 PARENTING PLANS THAT ARE FILED IN CASES IN WHICH THERE IS CREDIBLE  
22 INFORMATION THAT CHILD ABUSE OR DOMESTIC ABUSE HAS OCCURRED RECEIVE  
23 THE COURT REVIEW MANDATED BY § 9-104 OF THIS SUBTITLE.

24 (D) UPON MOTION OF A PARTY, AFTER CONSIDERATION OF THE EVIDENCE,  
25 THE COURT SHALL ORDER A PARENTING PLAN CONSISTENT WITH §§ 9-108 THROUGH  
26 9-110 OF THIS SUBTITLE, CONTAINING:

27 (1) A PROVISION FOR THE CHILD'S LIVING ARRANGEMENTS AND EACH  
28 PARTY'S PARENTAL RESPONSIBILITY, THAT SHALL INCLUDE EITHER:

29 (I) A PARENTING SCHEDULE THAT DESIGNATES THE PARENT'S  
30 HOME THAT EACH MINOR CHILD WILL RESIDE IN ON GIVEN DAYS OF THE YEAR; OR

31 (II) A FORMULA OR METHOD FOR DETERMINING A PARENTING  
32 SCHEDULE WITH SUFFICIENT DETAIL THAT, IF NECESSARY, THE SCHEDULE CAN BE  
33 ENFORCED IN SUBSEQUENT PROCEEDINGS BY THE COURT;

34 (2) AN ALLOCATION OF PARENTAL DECISION MAKING AUTHORITY AS TO  
35 SIGNIFICANT MATTERS REASONABLY LIKELY TO ARISE WITH RESPECT TO THE  
36 CHILD; AND

1 (3) REMEDIES FOR VIOLATIONS OF THE PLAN.

2 (E) A PARENTING PLAN MAY CONTAIN PROVISIONS THAT ADDRESS MATTERS  
3 EXPECTED TO ARISE IN THE EVENT OF A PARTY'S RELOCATION, OR PROVIDE FOR  
4 FUTURE MODIFICATIONS IN THE PARENTING PLAN IN THE EVENT SPECIFIED  
5 CONTINGENCIES OCCUR.

6 9-108.

7 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COURT  
8 SHALL ALLOCATE CUSTODY AND VISITATION SO THAT:

9 (1) THE PROPORTION OF CUSTODIAL AND VISITATION TIME THE CHILD  
10 SPENDS WITH EACH PARENT APPROXIMATES THE PROPORTION OF TIME THE  
11 PARENT SPENT PERFORMING CARETAKING FUNCTIONS FOR THE CHILD PRIOR TO  
12 THE PARENTS' SEPARATION; OR

13 (2) IF THE PARENTS NEVER LIVED TOGETHER BEFORE THE FILING OF  
14 THE ACTION, THE PROPORTION OF CUSTODIAL OR VISITATION TIME THE CHILD  
15 SPENDS WITH EACH PARENT APPROXIMATES THE PROPORTION OF TIME EACH  
16 PARENT SPENT PERFORMING CARETAKING FUNCTIONS FOR THE CHILD PRIOR TO  
17 THE FILING OF THE ACTION.

18 (B) THE COURT SHALL ALLOCATE CUSTODIAL OR VISITATION  
19 RESPONSIBILITY AS SET FORTH IN SUBSECTION (A) OF THIS SECTION:

20 (1) UNLESS OTHERWISE RESOLVED BY AGREEMENT OF THE PARENTS  
21 UNDER § 9-104 OF THIS SUBTITLE;

22 (2) UNLESS MANIFESTLY HARMFUL TO THE CHILD;

23 (3) TO THE EXTENT REQUIRED UNDER § 9-110 OF THIS SUBTITLE; AND

24 (4) EXCEPT AS NECESSARY TO ACHIEVE ANY OF THE FOLLOWING  
25 OBJECTIVES:

26 (I) TO PERMIT THE CHILD TO HAVE A RELATIONSHIP WITH EACH  
27 PARENT WHO HAS PERFORMED A REASONABLE SHARE OF PARENTING FUNCTIONS;

28 (II) TO ACCOMMODATE THE FIRM AND REASONABLE  
29 PREFERENCES OF A CHILD WHO IS AT LEAST 14 YEARS OLD;

30 (III) TO ACCOMMODATE THE FIRM AND REASONABLE  
31 PREFERENCES OF A CHILD UNDER THE AGE OF 14 YEARS, IF THE CHILD IS  
32 SUFFICIENTLY MATURE AND ABLE TO INTELLIGENTLY EXPRESS A VOLUNTARY  
33 PREFERENCE FOR ONE PARENT, GIVING THE PREFERENCE SUCH WEIGHT AS THE  
34 CIRCUMSTANCES WARRANT;

35 (IV) TO KEEP SIBLINGS TOGETHER WHEN THE COURT FINDS THAT  
36 IT IS NECESSARY TO THEIR WELFARE;

1 (V) TO PROTECT THE CHILD'S WELFARE WHEN, UNDER AN  
2 OTHERWISE APPROPRIATE ALLOCATION, THE CHILD WOULD BE HARMED BECAUSE  
3 OF A GROSS DISPARITY IN THE QUALITY OF THE EMOTIONAL ATTACHMENTS  
4 BETWEEN EACH PARENT AND THE CHILD OR IN EACH PARENT'S DEMONSTRATED  
5 ABILITY OR AVAILABILITY TO MEET A CHILD'S NEEDS;

6 (VI) TO TAKE INTO ACCOUNT ANY PRIOR AGREEMENT OF THE  
7 PARENTS THAT, UNDER THE CIRCUMSTANCES AS A WHOLE, INCLUDING THE  
8 REASONABLE EXPECTATIONS OF THE PARENTS IN THE INTEREST OF THE CHILD,  
9 WOULD BE APPROPRIATE TO CONSIDER;

10 (VII) TO AVOID AN ALLOCATION OF CUSTODIAL OR VISITATION  
11 RESPONSIBILITY THAT WOULD BE EXTREMELY IMPRACTICAL OR THAT WOULD  
12 INTERFERE SUBSTANTIALLY WITH THE CHILD'S NEED FOR STABILITY IN LIGHT OF  
13 ECONOMIC, PHYSICAL, OR OTHER CIRCUMSTANCES, INCLUDING THE DISTANCE  
14 BETWEEN THE PARENTS' RESIDENCES, THE COST AND DIFFICULTY OF  
15 TRANSPORTING THE CHILD, THE PARENTS' AND CHILD'S DAILY SCHEDULES, AND  
16 THE ABILITY OF THE PARENTS TO COOPERATE IN THE ARRANGEMENT; AND

17 (VIII) TO CONSIDER THE STAGE OF A CHILD'S DEVELOPMENT.

18 (C) (1) THE COURT SHALL ALLOCATE CUSTODIAL OR VISITATION  
19 RESPONSIBILITY BASED ON THE CHILD'S BEST INTEREST, TAKING INTO ACCOUNT  
20 THE FACTORS AND CONSIDERATIONS SET FORTH IN THIS SECTION AND IN § 9-110 OF  
21 THIS SUBTITLE IF UNABLE TO ALLOCATE CUSTODIAL OR VISITATION  
22 RESPONSIBILITY UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION BECAUSE:

23 (I) THE ALLOCATION WOULD BE MANIFESTLY HARMFUL TO THE  
24 CHILD;

25 (II) THERE IS NO HISTORY OF PAST PERFORMANCE OF  
26 CARETAKING FUNCTIONS, AS IN THE CASE OF A NEWBORN; OR

27 (III) THE HISTORY DOES NOT ESTABLISH A PATTERN OF  
28 CARETAKING SUFFICIENTLY DISPOSITIVE OF THE ISSUES OF THE CASE.

29 (2) THE ALLOCATION OF CUSTODIAL OR VISITATION RESPONSIBILITY  
30 UNDER THIS SUBSECTION SHALL, TO THE EXTENT POSSIBLE, PRESERVE THE  
31 PRIORITY SET FORTH IN SUBSECTION (A) OF THIS SECTION AS TO THE SHARE OF  
32 PAST CARETAKING FUNCTIONS EACH PARENT PERFORMED.

33 (D) IN DETERMINING HOW TO SCHEDULE THE CUSTODIAL OR VISITATION  
34 TIME ALLOCATED TO EACH PARENT, THE COURT SHALL TAKE INTO ACCOUNT THE  
35 ECONOMIC, PHYSICAL, AND OTHER PRACTICAL CIRCUMSTANCES SUCH AS THOSE  
36 LISTED IN SUBSECTION (B)(4)(VII) OF THIS SECTION.

37 9-109.

38 (A) UNLESS OTHERWISE RESOLVED BY AGREEMENT OF THE PARENTS UNDER  
39 § 9-104 OF THIS SUBTITLE, THE COURT SHALL ALLOCATE AUTHORITY FOR MAKING

1 SIGNIFICANT LIFE DECISIONS ON BEHALF OF THE CHILD, INCLUDING THE CHILD'S  
2 EDUCATION AND HEALTH CARE, TO ONE PARENT OR TO TWO PARENTS JOINTLY, IN  
3 ACCORDANCE WITH THE CHILD'S BEST INTEREST, IN LIGHT OF:

4 (1) THE ALLOCATION OF CUSTODIAL OR VISITATION RESPONSIBILITY  
5 UNDER § 9-108 OF THIS SUBTITLE;

6 (2) THE EXTENT OF EACH PARENT'S PARTICIPATION IN PAST DECISION  
7 MAKING ON BEHALF OF THE CHILD;

8 (3) THE WISHES OF THE PARENTS;

9 (4) THE LEVEL OF ABILITY AND COOPERATION THE PARENTS HAVE  
10 DEMONSTRATED IN DECISION MAKING ON BEHALF OF THE CHILD;

11 (5) PRIOR AGREEMENTS OF THE PARTIES; AND

12 (6) THE EXISTENCE OF ANY LIMITING FACTORS UNDER § 9-110 OF THIS  
13 SUBTITLE.

14 (B) UNLESS OTHERWISE PROVIDED OR AGREED BY THE PARENTS, EACH  
15 PARENT WHO IS EXERCISING CUSTODIAL OR VISITATION RESPONSIBILITY SHALL BE  
16 GIVEN SOLE RESPONSIBILITY FOR DAY-TO-DAY DECISIONS FOR THE CHILD, WHILE  
17 THE CHILD IS IN THAT PARENT'S CARE AND CONTROL, INCLUDING EMERGENCY  
18 DECISIONS AFFECTING THE HEALTH AND SAFETY OF THE CHILD.

19 9-110.

20 (A) IF EITHER OF THE PARENTS MAKES A REQUEST OR UPON RECEIPT OF  
21 CREDIBLE INFORMATION, THE COURT SHALL DETERMINE WHETHER A PARENT WHO  
22 WOULD OTHERWISE BE ALLOCATED RESPONSIBILITY UNDER A PARENTING PLAN:

23 (1) HAS ABUSED, NEGLECTED, OR ABANDONED A CHILD, AS DEFINED  
24 UNDER TITLE 5, SUBTITLE 7 OF THIS ARTICLE;

25 (2) HAS SEXUALLY ABUSED A CHILD OR COMMITTED A SEXUAL  
26 OFFENSE AGAINST A CHILD UNDER THE CRIMINAL LAW ARTICLE;

27 (3) HAS PERPETRATED AN ACT OF ABUSE, AS DEFINED IN § 4-501(B) OF  
28 THIS ARTICLE, AGAINST THE OTHER PARENT; OR

29 (4) HAS INTERFERED PERSISTENTLY AND UNREASONABLY WITH THE  
30 OTHER PARENT'S LAWFUL ACCESS TO THE CHILD.

31 (B) (1) IF A PARENT IS FOUND TO HAVE ENGAGED IN ANY ACTIVITY  
32 SPECIFIED BY SUBSECTION (A) OF THIS SECTION, THE COURT SHALL IMPOSE LIMITS  
33 THAT ARE REASONABLY CALCULATED TO PROTECT THE CHILD OR CHILD'S PARENT  
34 FROM HARM.

35 (2) THE LIMITATIONS THAT THE COURT SHALL CONSIDER INCLUDE:

1 (I) AN ADJUSTMENT OF THE CUSTODIAL OR VISITATION  
2 RESPONSIBILITY OF THE PARENTS, INCLUDING THE ALLOCATION OF EXCLUSIVE  
3 CUSTODIAL RESPONSIBILITY TO ONE OF THEM;

4 (II) SUPERVISION OF THE CUSTODIAL OR VISITATION TIME  
5 BETWEEN A PARENT AND THE CHILD;

6 (III) EXCHANGE OF THE CHILD BETWEEN PARENTS THROUGH AN  
7 INTERMEDIARY OR IN A PROTECTED SETTING;

8 (IV) RESTRAINTS ON THE PARENT FROM COMMUNICATION WITH OR  
9 PROXIMITY TO THE OTHER PARENT OR THE CHILD;

10 (V) A REQUIREMENT THAT THE PARENT ABSTAIN FROM  
11 POSSESSION OR CONSUMPTION OF ALCOHOL OR NONPRESCRIBED DRUGS WHILE  
12 EXERCISING CUSTODIAL OR VISITATION RESPONSIBILITY AND IN THE 24-HOUR  
13 PERIOD IMMEDIATELY PRECEDING THE CUSTODIAL OR VISITATION  
14 RESPONSIBILITY;

15 (VI) DENIAL OF OVERNIGHT CUSTODIAL OR VISITATION  
16 RESPONSIBILITY;

17 (VII) RESTRICTIONS ON THE PRESENCE OF SPECIFIC PERSONS  
18 WHILE THE PARENT IS WITH THE CHILD;

19 (VIII) A REQUIREMENT THAT THE PARENT POST A BOND TO SECURE  
20 RETURN OF THE CHILD FOLLOWING A PERIOD IN WHICH THE PARENT IS EXERCISING  
21 CUSTODIAL OR VISITATION RESPONSIBILITY OR TO SECURE OTHER PERFORMANCE  
22 REQUIRED BY THE COURT;

23 (IX) A REQUIREMENT THAT THE PARENT COMPLETE A PROGRAM OF  
24 INTERVENTION FOR PERPETRATORS OF DOMESTIC VIOLENCE OR FOR DRUG OR  
25 ALCOHOL ABUSE OR A PROGRAM DESIGNED TO CORRECT OTHER HARMFUL  
26 BEHAVIORS; OR

27 (X) ANY OTHER CONSTRAINTS OR CONDITIONS THAT THE COURT  
28 DEEMS NECESSARY TO PROVIDE FOR THE SAFETY OF THE CHILD, A CHILD'S PARENT,  
29 OR ANY PERSON WHOSE SAFETY IMMEDIATELY AFFECTS THE CHILD'S WELFARE.

30 (C) (1) IF A PARENT IS FOUND TO HAVE ENGAGED IN ANY ACTIVITY  
31 SPECIFIED IN SUBSECTION (A) OF THIS SECTION, THE COURT MAY NOT ALLOCATE  
32 CUSTODIAL OR VISITATION RESPONSIBILITY OR DECISION MAKING AUTHORITY TO  
33 THAT PARENT WITHOUT MAKING SPECIAL WRITTEN FINDINGS THAT THE CHILD AND  
34 OTHER PARENT CAN BE ADEQUATELY PROTECTED FROM HARM BY THE LIMITS THE  
35 COURT MAY IMPOSE UNDER SUBSECTION (B)(2) OF THIS SECTION.

36 (2) THE PARENT FOUND TO HAVE ENGAGED IN THE BEHAVIOR  
37 SPECIFIED IN SUBSECTION (A) OF THIS SECTION HAS THE BURDEN OF PROVING  
38 THAT AN ALLOCATION OF CUSTODIAL OR VISITATION RESPONSIBILITY OR DECISION

1 MAKING AUTHORITY TO THAT PARENT WILL NOT ENDANGER THE CHILD OR THE  
2 OTHER PARENT.

3

PART III. FACT FINDING.

4 9-111.

5 (A) (1) THE COURT MAY ORDER AN INVESTIGATION AND WRITTEN REPORT  
6 TO ASSIST IN DETERMINING ANY ISSUE RELEVANT TO PROCEEDINGS UNDER THIS  
7 ARTICLE.

8 (2) THE INVESTIGATION AND REPORT MAY BE MADE BY THE GUARDIAN  
9 AD LITEM, THE STAFF OF THE COURT, OR OTHER PROFESSIONAL SOCIAL SERVICE  
10 ORGANIZATIONS EXPERIENCED IN COUNSELING CHILDREN AND FAMILIES.

11 (3) THE COURT SHALL SPECIFY THE SCOPE OF THE INVESTIGATION OR  
12 EVALUATION AND THE AUTHORITY OF THE INVESTIGATOR.

13 (B) (1) THE INVESTIGATOR MAY CONSULT ANY PERSON WHO MAY HAVE  
14 INFORMATION ABOUT THE CHILD AND THE POTENTIAL PARENTING, CUSTODIAL, OR  
15 VISITATION ARRANGEMENTS.

16 (2) UPON ORDER OF THE COURT, THE INVESTIGATOR MAY REFER THE  
17 CHILD TO PROFESSIONAL PERSONNEL FOR DIAGNOSIS.

18 (3) THE INVESTIGATOR MAY CONSULT WITH AND OBTAIN INFORMATION  
19 FROM MEDICAL, PSYCHIATRIC, OR OTHER EXPERT PERSONS WHO HAVE SERVED THE  
20 CHILD IN THE PAST WITHOUT OBTAINING THE CONSENT OF THE PARENT OR THE  
21 CHILD'S CUSTODIAN, PROVIDED THAT THE CHILD'S CONSENT SHALL BE OBTAINED IF  
22 THE CHILD HAS REACHED 12 YEARS OF AGE, UNLESS THE COURT FINDS THAT THE  
23 CHILD LACKS MENTAL CAPACITY TO CONSENT.

24 (4) IF THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION ARE  
25 FULFILLED, THE INVESTIGATOR'S REPORT MAY BE RECEIVED IN EVIDENCE AT THE  
26 HEARING.

27 (C) (1) THE INVESTIGATOR SHALL DELIVER THE INVESTIGATOR'S REPORT  
28 TO COUNSEL AND TO ANY PARTY NOT REPRESENTED BY COUNSEL AT LEAST 10 DAYS  
29 PRIOR TO THE HEARING UNLESS A SHORTER TIME IS ORDERED BY THE COURT FOR  
30 GOOD CAUSE SHOWN.

31 (2) THE INVESTIGATOR SHALL MAKE AVAILABLE TO COUNSEL AND TO  
32 ANY PARTY NOT REPRESENTED BY COUNSEL THE INVESTIGATOR'S FILE OF  
33 UNDERLYING DATA AND REPORTS, COMPLETE TEXTS OF DIAGNOSTIC REPORTS  
34 MADE TO THE INVESTIGATOR UNDER THE PROVISIONS OF SUBSECTION (B) OF THIS  
35 SECTION, AND THE NAMES AND ADDRESSES OF ALL PERSONS WHOM THE  
36 INVESTIGATOR HAS CONSULTED.

1 (3) A PARTY TO THE PROCEEDING MAY CALL THE INVESTIGATOR AND  
2 ANY PERSON WHOM THE INVESTIGATOR HAS CONSULTED FOR  
3 CROSS-EXAMINATION.

4 (4) A PARTY MAY NOT WAIVE THE RIGHT OF CROSS-EXAMINATION  
5 PRIOR TO THE HEARING.

6 9-112.

7 (A) (1) THE COURT MAY APPOINT A GUARDIAN AD LITEM TO REPRESENT  
8 THE CHILD'S BEST INTERESTS.

9 (2) THE COURT SHALL SPECIFY THE TERMS OF THE APPOINTMENT,  
10 INCLUDING THE GUARDIAN'S ROLE, DUTIES, AND SCOPE OF AUTHORITY.

11 (B) (1) THE COURT MAY APPOINT A LAWYER TO REPRESENT THE CHILD, IF  
12 THE CHILD IS COMPETENT TO DIRECT THE TERMS OF THE REPRESENTATION AND  
13 THE COURT HAS A REASONABLE BASIS FOR FINDING THAT THE APPOINTMENT  
14 WOULD BE HELPFUL IN RESOLVING THE ISSUES OF THE CASE.

15 (2) THE COURT SHALL SPECIFY THE TERMS OF THE APPOINTMENT,  
16 INCLUDING THE LAWYER'S ROLE, DUTIES, AND SCOPE OF AUTHORITY.

17 (C) WHEN ALLEGATIONS OF DOMESTIC ABUSE HAVE BEEN MADE, THE COURT  
18 SHALL ORDER AN INVESTIGATION UNDER § 9-111 OF THIS SUBTITLE OR MAKE AN  
19 APPOINTMENT UNDER SUBSECTION (A) OR (B) OF THIS SECTION, UNLESS THE COURT  
20 IS SATISFIED THAT THE INFORMATION NECESSARY TO EVALUATE THE  
21 ALLEGATIONS WILL BE ADEQUATELY PRESENTED TO THE COURT WITHOUT AN  
22 ORDER OR APPOINTMENT.

23 (D) SUBJECT TO RESTRICTIONS IMPOSED AT THE DISCRETION OF THE COURT  
24 OR BY THE ATTORNEY-CLIENT PRIVILEGE, THE COURT MAY REQUIRE THAT:

25 (1) THE CHILD OR PARENT PROVIDE INFORMATION TO AN INDIVIDUAL  
26 OR AGENCY APPOINTED BY THE COURT UNDER EITHER § 9-111 OF THIS SUBTITLE OR  
27 SUBSECTION (A) OR (B) OF THIS SECTION; AND

28 (2) A PERSON HAVING INFORMATION ABOUT THE CHILD OR PARENT  
29 PROVIDE THE INFORMATION, EVEN IN THE ABSENCE OF CONSENT BY A PARENT OR  
30 BY THE CHILD, UNLESS THE INFORMATION IS OTHERWISE PROTECTED BY LAW.

31 (E) (1) THE INVESTIGATOR WHO SUBMITS A REQUESTED REPORT OR  
32 EVIDENCE TO THE COURT UNDER § 9-111 OF THIS SUBTITLE AND A GUARDIAN AD  
33 LITEM APPOINTED UNDER SUBSECTION (A) OF THIS SECTION WHO SUBMITS  
34 INFORMATION OR RECOMMENDATIONS TO THE COURT ARE SUBJECT TO  
35 CROSS-EXAMINATION BY THE PARTIES.

36 (2) A LAWYER APPOINTED UNDER SUBSECTION (B) OF THIS SECTION  
37 MAY NOT BE A WITNESS IN THE PROCEEDINGS, EXCEPT AS ALLOWED UNDER  
38 STANDARDS APPLICABLE IN OTHER CIVIL PROCEEDINGS.

1 9-113.

2 (A) THE COURT MAY INTERVIEW THE CHILD IN CHAMBERS OR DIRECT  
3 ANOTHER PERSON TO INTERVIEW THE CHILD, IN ORDER TO OBTAIN INFORMATION  
4 RELATING TO THE ISSUES OF THE CASE.

5 (B) THE INTERVIEW SHALL BE CONDUCTED IN ACCORDANCE WITH THE  
6 MARYLAND RULES.

7 PART IV. MODIFICATION OF A PARENTING PLAN.

8 9-114.

9 (A) EXCEPT AS PROVIDED IN § 9-115 OF THIS SUBTITLE, A COURT SHALL  
10 MODIFY A PARENTING PLAN ORDER IF IT FINDS THAT:

11 (1) A SUBSTANTIAL CHANGE HAS OCCURRED IN THE CIRCUMSTANCES  
12 OF THE CHILD OR OF ONE OR BOTH PARENTS;

13 (2) A MODIFICATION IS NECESSARY TO SERVE THE BEST INTERESTS OF  
14 THE CHILD; AND

15 (3) THE CHANGE OCCURRED OR MODIFICATION IS NECESSARY ON THE  
16 BASIS OF FACTS THAT WERE NOT KNOWN OR HAVE ARISEN SINCE THE ENTRY OF  
17 THE PRIOR ORDER AND WERE NOT ANTICIPATED IN THE PRIOR ORDER.

18 (B) A COURT MAY MODIFY A PARENTING PLAN UPON THE EXISTENCE OF  
19 EXCEPTIONAL CIRCUMSTANCES, IF IT FINDS THAT THE PLAN IS NOT WORKING AS  
20 CONTEMPLATED OR INTENDED AND IN A SPECIFIC WAY IS MANIFESTLY HARMFUL  
21 TO THE CHILD, EVEN IF A SUBSTANTIAL CHANGE OF CIRCUMSTANCES HAS NOT  
22 OCCURRED.

23 (C) UNLESS THE PARENTS HAVE AGREED OTHERWISE, THE FOLLOWING  
24 CIRCUMSTANCES DO NOT JUSTIFY A MODIFICATION OF A PARENTING PLAN EXCEPT  
25 WHERE SPECIFIC HARM TO THE CHILD IS SHOWN:

26 (1) AN INVOLUNTARY LOSS OF INCOME, BY LOSS OF EMPLOYMENT OR  
27 OTHERWISE, AFFECTING THE PARENT'S ECONOMIC STATUS;

28 (2) A PARENT'S REMARRIAGE OR COHABITATION; OR

29 (3) THE CHOICE OF REASONABLE CARETAKING ARRANGEMENTS FOR  
30 THE CHILD BY A LEGAL PARENT, INCLUDING THE CHILD'S PLACEMENT IN DAY CARE.

31 (D) FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION, THE OCCURRENCE  
32 OR WORSENING OF A LIMITING FACTOR, AS DEFINED IN § 9-110(A) OF THIS SUBTITLE,  
33 AFTER A PARENTING PLAN HAS BEEN ORDERED BY THE COURT, CONSTITUTES A  
34 SUBSTANTIAL CHANGE OF CIRCUMSTANCES AND MEASURES SHALL BE ORDERED  
35 PURSUANT TO § 9-110 OF THIS SUBTITLE TO PROTECT THE CHILD OR THE CHILD'S  
36 PARENT.

1 9-115.

2 (A) THE COURT SHALL MODIFY A PARENTING PLAN IN ACCORDANCE WITH A  
3 PARENTING AGREEMENT, UNLESS IT FINDS THAT THE AGREEMENT IS NOT  
4 KNOWING AND VOLUNTARY OR THAT IT WOULD BE HARMFUL TO THE CHILD.

5 (B) THE COURT MAY MODIFY ANY PROVISIONS OF THE PARENTING PLAN  
6 WITHOUT THE SHOWING OF CHANGED CIRCUMSTANCES REQUIRED BY § 9-114(A) OF  
7 THIS SUBTITLE, IF THE MODIFICATION IS IN THE CHILD'S BEST INTERESTS, AND THE  
8 MODIFICATION:

9 (1) REFLECTS THE DE FACTO ARRANGEMENTS UNDER WHICH THE  
10 CHILD HAS BEEN RECEIVING CARE FROM A PARENT IN SUBSTANTIAL DEVIATION  
11 FROM THE PARENTING PLAN, WITHOUT OBJECTION, AND FOR AT LEAST 6 MONTHS  
12 PRECEDING THE FILING OF THE PETITION FOR MODIFICATION, IF THE  
13 ARRANGEMENT IS NOT THE RESULT OF A PARENT'S ACQUIESCENCE RESULTING  
14 FROM THE OTHER PARENT'S DOMESTIC ABUSE; AND

15 (2) CONSTITUTES A MINOR MODIFICATION IN THE PLAN; OR

16 (3) IS NECESSARY TO ACCOMMODATE THE REASONABLE AND FIRM  
17 PREFERENCES OF A CHILD WHO HAS ATTAINED THE AGE OF 14 YEARS.

18 PART V. ENFORCEMENT OF PARENTING PLANS.

19 9-116.

20 (A) UPON A PARENTAL COMPLAINT, IF THE COURT FINDS THAT A PARENT  
21 INTENTIONALLY AND WITHOUT GOOD CAUSE VIOLATED A PROVISION OF THE COURT  
22 ORDERED PARENTING PLAN, THE COURT SHALL ENFORCE THE REMEDY SPECIFIED  
23 IN THE PLAN OR, IF NO REMEDIES ARE SPECIFIED OR SPECIFIED REMEDIES ARE  
24 CLEARLY INADEQUATE, THE COURT SHALL FIND THE PLAN HAS BEEN VIOLATED  
25 AND ORDER AN APPROPRIATE REMEDY THAT MAY INCLUDE:

26 (1) IN THE CASE OF INTERFERENCE WITH THE EXERCISE OF CUSTODIAL  
27 OR VISITATION RESPONSIBILITY FOR A CHILD BY THE OTHER PARENT, SUBSTITUTE  
28 TIME FOR THAT PARENT TO MAKE UP FOR TIME MISSED WITH THE CHILD;

29 (2) IN THE CASE OF MISSED TIME BY A PARENT, COSTS IN RECOGNITION  
30 OF LOST OPPORTUNITIES BY THE OTHER PARENT, CHILD CARE COSTS, AND OTHER  
31 REASONABLE EXPENSES IN CONNECTION WITH THE MISSED TIME;

32 (3) A MODIFICATION OF THE PLAN, IF THE REQUIREMENTS FOR A  
33 MODIFICATION ARE MET UNDER § 9-110, § 9-114, OR § 9-115 OF THIS SUBTITLE,  
34 INCLUDING AN ADJUSTMENT OF THE CUSTODIAL OR VISITATION RESPONSIBILITY  
35 OF THE PARENTS OR AN ALLOCATION OF EXCLUSIVE CUSTODIAL RESPONSIBILITY  
36 TO ONE OF THEM;

37 (4) AN ORDER THAT THE PARENT WHO VIOLATED THE PLAN OBTAIN  
38 APPROPRIATE COUNSELING;

1 (5) A CIVIL PENALTY, IN AN AMOUNT OF NOT MORE THAN \$100 FOR A  
2 FIRST OFFENSE, NOT MORE THAN \$500 FOR A SECOND OFFENSE, AND NOT MORE  
3 THAN \$1,000 FOR A THIRD OR SUBSEQUENT OFFENSE, TO BE PAID TO THE CLERK OF  
4 THE CIRCUIT COURT;

5 (6) COURT COSTS, REASONABLE ATTORNEY'S FEES, AND ANY OTHER  
6 REASONABLE EXPENSES INCURRED IN ENFORCING THE PLAN; AND

7 (7) ANY OTHER APPROPRIATE REMEDY DETERMINED BY THE COURT.

8 (B) EXCEPT AS PROVIDED IN A JOINTLY SUBMITTED PLAN THAT HAS BEEN  
9 ORDERED BY THE COURT, OBLIGATIONS ESTABLISHED IN A PARENTING PLAN ARE  
10 INDEPENDENT OBLIGATIONS, AND IT IS NOT A DEFENSE TO AN ACTION UNDER THIS  
11 SECTION BY ONE PARENT THAT THE OTHER PARENT FAILED TO MEET OBLIGATIONS  
12 UNDER A PARENTING PLAN OR CHILD SUPPORT ORDER.

13 (C) AN AGREEMENT BETWEEN THE PARENTS TO DEPART FROM THE  
14 PARENTING PLAN CAN BE A DEFENSE TO A CLAIM THAT THE PLAN HAS BEEN  
15 VIOLATED, EVEN THOUGH THE AGREEMENT WAS NOT MADE PART OF A COURT  
16 ORDER, BUT ONLY AS TO ACTS OR OMISSIONS CONSISTENT WITH THE AGREEMENT  
17 THAT OCCUR BEFORE THE AGREEMENT IS DISAFFIRMED BY EITHER PARENT.

18 PART VI. MISCELLANEOUS PROVISIONS.

19 9-117.

20 (A) (1) EACH PARENT HAS FULL AND EQUAL ACCESS TO A CHILD'S  
21 EDUCATIONAL RECORDS ABSENT A COURT ORDER TO THE CONTRARY.

22 (2) NEITHER PARENT MAY VETO THE ACCESS REQUESTED BY THE  
23 OTHER PARENT.

24 (B) EDUCATIONAL RECORDS UNDER SUBSECTION (A) OF THIS SECTION  
25 INCLUDE:

26 (1) ACADEMIC, ATTENDANCE, AND DISCIPLINARY RECORDS OF PUBLIC  
27 AND PRIVATE INSTITUTIONS OF SECONDARY EDUCATION AND ANY FORM OF  
28 ALTERNATIVE SCHOOL; AND

29 (2) ALL SCHOOL RECORDS CONCERNING THE CHILD THAT WOULD  
30 OTHERWISE BE PROPERLY RELEASED TO THE PRIMARY CUSTODIAL PARENT,  
31 INCLUDING:

32 (I) REPORT CARDS AND PROGRESS REPORTS;

33 (II) ATTENDANCE RECORDS;

34 (III) DISCIPLINARY REPORTS;

1 (IV) RESULTS OF THE CHILD'S PERFORMANCE ON STANDARDIZED  
2 TESTS AND STATEWIDE TESTS AND INFORMATION ON THE PERFORMANCE OF THE  
3 CHILD'S SCHOOL ON STANDARDIZED STATEWIDE TESTS;

4 (V) CURRICULUM MATERIALS OF THE CLASS OR CLASSES IN  
5 WHICH THE CHILD IS ENROLLED;

6 (VI) NAMES OF THE APPROPRIATE SCHOOL PERSONNEL TO  
7 CONTACT IF PROBLEMS ARISE WITH THE CHILD;

8 (VII) INFORMATION CONCERNING THE ACADEMIC PERFORMANCE  
9 STANDARDS, PROFICIENCIES, OR SKILLS THE CHILD IS EXPECTED TO ACCOMPLISH;

10 (VIII) SCHOOL RULES, ATTENDANCE POLICIES, DRESS CODES, AND  
11 PROCEDURES FOR VISITING THE SCHOOL; AND

12 (IX) INFORMATION ABOUT ANY PSYCHOLOGICAL TESTING THE  
13 SCHOOL DOES INVOLVING THE CHILD.

14 (C) (1) IN ADDITION TO THE RIGHT TO RECEIVE EDUCATIONAL RECORDS,  
15 THE NONCUSTODIAL PARENT HAS THE RIGHT TO PARTICIPATE AS A MEMBER OF A  
16 PARENT ADVISORY COMMITTEE OR ANY OTHER ORGANIZATION COMPRISED OF  
17 PARENTS OF CHILDREN AT THE SCHOOL THAT THE CHILD ATTENDS.

18 (2) THE NONCUSTODIAL PARENT HAS THE RIGHT TO QUESTION  
19 ANYTHING IN THE CHILD'S EDUCATIONAL RECORD THAT THE PARENT FEELS IS  
20 INACCURATE OR MISLEADING OR IS AN INVASION OF PRIVACY AND TO RECEIVE A  
21 RESPONSE FROM THE SCHOOL.

22 (D) (1) EACH PARENT HAS A RIGHT TO ARRANGE APPOINTMENTS FOR  
23 PARENT-TEACHER CONFERENCES ABSENT A COURT ORDER TO THE CONTRARY.

24 (2) NEITHER PARENT CAN BE COMPELLED AGAINST THE PARENT'S WILL  
25 TO EXERCISE THIS RIGHT BY ATTENDING CONFERENCES JOINTLY WITH THE OTHER  
26 PARENT.

27 (E) (1) EACH PARENT HAS FULL AND EQUAL ACCESS TO A CHILD'S MEDICAL  
28 RECORDS ABSENT A COURT ORDER TO THE CONTRARY.

29 (2) NEITHER PARENT MAY VETO THE ACCESS REQUESTED BY THE  
30 OTHER PARENT.

31 (3) IF NECESSARY, EITHER PARENT SHALL AUTHORIZE MEDICAL  
32 PROVIDERS TO RELEASE TO THE OTHER PARENT COPIES OF ANY AND ALL  
33 INFORMATION CONCERNING MEDICAL CARE PROVIDED TO THE CHILD THAT WOULD  
34 OTHERWISE BE PROPERLY RELEASED TO EITHER PARENT.

35 (F) IF THE CHILD IS IN THE ACTUAL PHYSICAL CUSTODY OF ONE PARENT,  
36 THAT PARENT IS REQUIRED TO PROMPTLY INFORM THE OTHER PARENT OF ANY  
37 ILLNESS OF THE CHILD THAT REQUIRES MEDICAL ATTENTION.

1 (G) (1) EACH PARENT IS REQUIRED TO CONSULT WITH THE OTHER PARENT  
2 PRIOR TO ANY ELECTIVE SURGERY BEING PERFORMED ON THE CHILD, AND IN THE  
3 EVENT EMERGENCY MEDICAL PROCEDURES ARE UNDERTAKEN FOR THE CHILD  
4 WHICH REQUIRE THE PARENTAL CONSENT OF EITHER PARENT, IF TIME PERMITS,  
5 THE OTHER PARENT SHALL BE CONSULTED, OR IF TIME DOES NOT PERMIT SUCH  
6 CONSULTATION, THE OTHER PARENT SHALL BE PROMPTLY INFORMED OF THE  
7 EMERGENCY MEDICAL PROCEDURES.

8 (2) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO ALTER OR  
9 AMEND THE LAW OF THIS STATE AS IT OTHERWISE PERTAINS TO PHYSICIANS OR  
10 HEALTH CARE FACILITIES OBTAINING PARENTAL CONSENT PRIOR TO PROVIDING  
11 MEDICAL CARE OR PERFORMING MEDICAL PROCEDURES.

12 (H) (1) EACH PARENT HAS FULL AND EQUAL ACCESS TO A CHILD'S  
13 JUVENILE COURT RECORDS, PROCESS, AND PLEADINGS, ABSENT A COURT ORDER TO  
14 THE CONTRARY.

15 (2) NEITHER PARENT MAY VETO ANY ACCESS REQUESTED BY THE  
16 OTHER PARENT.

17 (3) JUVENILE COURT RECORDS ARE LIMITED TO THOSE RECORDS THAT  
18 ARE NORMALLY AVAILABLE TO A PARENT OF A CHILD WHO IS A SUBJECT OF THE  
19 JUVENILE JUSTICE SYSTEM.

20 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the approval of  
21 the Department of Legislative Services, the publishers of the Annotated Code of  
22 Maryland shall correct any cross-references that are rendered incorrect by this Act.

23 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be  
24 construed to apply only prospectively and may not be applied or interpreted to have  
25 any effect on or application to any action for divorce, paternity, support, separate  
26 maintenance, judicial allocation of custody or visitation responsibilities, judicial  
27 allocation of decision making authority, or other custody proceeding by parents of a  
28 minor child, or action for a modification of any provision of an order, agreement, or  
29 settlement with respect to the care, custodial or visitation responsibility, decision  
30 making authority, education, or support of a minor child, filed before the effective  
31 date of this Act.

32 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 January 1, 2003.