

SENATE BILL 52

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SB 144/00 - JPR

2003 Regular Session  
3lr0414

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By: **Senators Kelley, Britt, Brochin, Conway, DeGrange, Exum, Forehand,  
Grosfeld, Hollinger, Hooper, Hughes, Jacobs, Jones, Klausmeier,  
Lawlah, Munson, Ruben, Stone, and Teitelbaum**

Introduced and read first time: January 17, 2003  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 18, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Family Law - ~~Denial of Custody and Unsupervised Visitation - Sexual~~**  
3 **~~Offenses and Child Abuse~~**

4 FOR the purpose of ~~prohibiting~~ limiting a court from awarding custody or  
5 unsupervised visitation with a child to a noncustodial parent who has been  
6 found guilty of incest, rape, a sexual offense against a child, or child abuse;  
7 providing for the application of this Act that the court finds has committed  
8 abuse against any child, unless the court specifically finds that there is no  
9 likelihood that the party will abuse the subject child; clarifying language; and  
10 generally relating to child custody and visitation.

11 BY ~~adding to~~ repealing and reenacting, with amendments,  
12 Article - Family Law  
13 ~~Section 9-101.2~~ Section 9-101 and 9-101.1  
14 Annotated Code of Maryland  
15 (1999 Replacement Volume and 2002 Supplement)

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

18 **Article - Family Law**

19 ~~9-101.2.~~

20 ~~A COURT MAY NOT AWARD UNSUPERVISED VISITATION WITH A CHILD TO A~~  
21 ~~NONCUSTODIAL PARENT WHO HAS BEEN FOUND GUILTY BY A COURT OF:~~

- 1           (1)     ~~INCEST;~~
- 2           (2)     ~~RAPE;~~
- 3           (3)     ~~A SEXUAL OFFENSE AGAINST A CHILD; OR~~
- 4           (4)     ~~CHILD ABUSE.~~

5     ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only~~  
6 ~~to findings of guilt made on or after the effective date of this Act.~~  
7 ~~9-101.~~

8     (a)     In any custody or visitation proceeding, if the court has reasonable grounds  
9 to believe that a child WHO IS THE SUBJECT OF THE PROCEEDING has been abused or  
10 neglected by a party to the proceeding, the court shall determine whether abuse or  
11 neglect is likely to occur if custody or visitation rights are granted to the party.

12    (b)     Unless the court specifically finds that there is no likelihood of further  
13 [child] abuse or neglect OF THE SUBJECT CHILD by the party, the court shall deny  
14 custody or visitation rights to that party, except that the court may approve a  
15 supervised visitation arrangement that assures the safety and the physiological,  
16 psychological, and emotional well-being of the SUBJECT child.

17 9-101.1.

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

19    (b)     In a custody or visitation proceeding, the court shall consider, when  
20 deciding custody or visitation issues, evidence of abuse by a party against:

- 21           (1)     the other parent of the party's child;
- 22           (2)     the party's spouse; or
- 23           (3)     any child [residing within the party's household], including a child  
24 other than the child who is the subject of the custody or visitation proceeding.

25    (c)     If the court finds that a party has committed abuse against the other  
26 parent of the party's [child,] CHILD OR the party's spouse, [or any child residing  
27 within the party's household,] the court shall make arrangements for custody or  
28 visitation that best protect:

- 29           (1)     the child who is the subject of the proceeding; and
- 30           (2)     the victim of the abuse.

31    (D)     IF A COURT FINDS THAT A PARTY HAS COMMITTED ABUSE AGAINST ANY  
32 CHILD, THE COURT:

1           (1)     SHALL DETERMINE WHETHER ABUSE OF THE SUBJECT CHILD IS  
2 LIKELY TO OCCUR IF CUSTODY OR VISITATION RIGHTS ARE GRANTED TO THE PARTY;  
3 AND

4           (2)     UNLESS THE COURT SPECIFICALLY FINDS THAT THERE IS NO  
5 LIKELIHOOD OF ABUSE, SHALL DENY CUSTODY OR VISITATION RIGHTS TO THAT  
6 PARTY, EXCEPT THAT THE COURT MAY APPROVE A SUPERVISED VISITATION  
7 ARRANGEMENT THAT ASSURES THE SAFETY AND PHYSIOLOGICAL, PSYCHOLOGICAL,  
8 AND EMOTIONAL WELL-BEING OF THE SUBJECT CHILD.

9     SECTION ~~3-~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take  
10 effect October 1, 2003.