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By: **Senators Haines, Forehand, and Grosfeld**

Introduced and read first time: January 19, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Denial of Custody or Visitation - Murder Convictions**

3 FOR the purpose of prohibiting a court, except under certain circumstances, from  
4 awarding custody of a child or visitation with a child to a parent who has been  
5 found by a court to be guilty of first degree or second degree murder of certain  
6 individuals; authorizing the court to approve a certain supervised visitation  
7 arrangement under certain circumstances; providing for the application of this  
8 Act; and generally relating to child custody and visitation.

9 BY repealing and reenacting, without amendments,  
10 Article - Family Law  
11 Section 9-101 and 9-101.1  
12 Annotated Code of Maryland  
13 (1999 Replacement Volume and 2004 Supplement)

14 BY adding to  
15 Article - Family Law  
16 Section 9-101.2  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume and 2004 Supplement)

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

21 **Article - Family Law**

22 9-101.

23 (a) In any custody or visitation proceeding, if the court has reasonable grounds  
24 to believe that a child has been abused or neglected by a party to the proceeding, the  
25 court shall determine whether abuse or neglect is likely to occur if custody or  
26 visitation rights are granted to the party.

27 (b) Unless the court specifically finds that there is no likelihood of further  
28 child abuse or neglect by the party, the court shall deny custody or visitation rights to

1 that party, except that the court may approve a supervised visitation arrangement  
2 that assures the safety and the physiological, psychological, and emotional well-being  
3 of the child.

4 9-101.1.

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

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

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

9 (2) the party's spouse; or

10 (3) any child residing within the party's household, including a child  
11 other than the child who is the subject of the custody or visitation proceeding.

12 (c) If the court finds that a party has committed abuse against the other  
13 parent of the party's child, the party's spouse, or any child residing within the party's  
14 household, the court shall make arrangements for custody or visitation that best  
15 protect:

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

17 (2) the victim of the abuse.

18 9-101.2.

19 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, UNLESS  
20 GOOD CAUSE FOR THE AWARD OF CUSTODY OR VISITATION IS SHOWN BY CLEAR AND  
21 CONVINCING EVIDENCE, A COURT MAY NOT AWARD CUSTODY OF A CHILD OR  
22 VISITATION WITH A CHILD:

23 (1) TO A PARENT WHO HAS BEEN FOUND BY A COURT OF THIS STATE TO  
24 BE GUILTY OF FIRST DEGREE OR SECOND DEGREE MURDER OF THE OTHER PARENT  
25 OF THE CHILD, ANOTHER CHILD OF THE PARENT, OR ANY FAMILY MEMBER OF  
26 EITHER PARENT OF THE CHILD; OR

27 (2) TO A PARENT WHO HAS BEEN FOUND BY A COURT OF ANY STATE OR  
28 OF THE UNITED STATES TO BE GUILTY OF A CRIME THAT, IF COMMITTED IN THIS  
29 STATE, WOULD BE FIRST DEGREE MURDER OR SECOND DEGREE MURDER OF THE  
30 OTHER PARENT OF THE CHILD, ANOTHER CHILD OF THE PARENT, OR ANY FAMILY  
31 MEMBER OF EITHER PARENT OF THE CHILD.

32 (B) IF IT IS IN THE BEST INTEREST OF THE CHILD, THE COURT MAY APPROVE  
33 A SUPERVISED VISITATION ARRANGEMENT THAT ASSURES THE SAFETY AND THE  
34 PHYSIOLOGICAL, PSYCHOLOGICAL, AND EMOTIONAL WELL-BEING OF THE CHILD.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only  
36 to offenses committed on or after the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2005.