
By: **Senators Haines, Forehand, and Grosfeld**
Introduced and read first time: January 19, 2005
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 20, 2005

CHAPTER_____

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:

1

Article - Family Law

2 9-101.

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

7 (b) Unless the court specifically finds that there is no likelihood of further
8 child abuse or neglect by the party, the court shall deny custody or visitation rights to
9 that party, except that the court may approve a supervised visitation arrangement
10 that assures the safety and the physiological, psychological, and emotional well-being
11 of the child.

12 9-101.1.

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

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

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

17 (2) the party's spouse; or

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

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

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

25 (2) the victim of the abuse.

26 9-101.2.

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

31 (1) TO A PARENT WHO HAS BEEN FOUND BY A COURT OF THIS STATE TO
32 BE GUILTY OF FIRST DEGREE OR SECOND DEGREE MURDER OF THE OTHER PARENT
33 OF THE CHILD, ANOTHER CHILD OF THE PARENT, OR ANY FAMILY MEMBER
34 RESIDING IN THE HOUSEHOLD OF EITHER PARENT OF THE CHILD; OR

1 (2) TO A PARENT WHO HAS BEEN FOUND BY A COURT OF ANY STATE OR
2 OF THE UNITED STATES TO BE GUILTY OF A CRIME THAT, IF COMMITTED IN THIS
3 STATE, WOULD BE FIRST DEGREE MURDER OR SECOND DEGREE MURDER OF THE
4 OTHER PARENT OF THE CHILD, ANOTHER CHILD OF THE PARENT, OR ANY FAMILY
5 MEMBER RESIDING IN THE HOUSEHOLD OF EITHER PARENT OF THE CHILD.

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

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

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