
By: **Delegates Dumais and Smigiel**
Introduced and read first time: February 6, 2006
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 22, 2006

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Court-Appointed Lawyer for Child –~~Immunity from Civil~~**
3 **~~Liability~~**

4 FOR the purpose of authorizing the court to appoint a lawyer to represent a minor
5 child ~~in an action in which the court has reason to be concerned about the~~
6 ~~welfare of the child; authorizing the court to specify the role and duties of a~~
7 ~~child's lawyer in accordance with certain standards; authorizing the court to~~
8 ~~impose against either or both parents fees for services rendered at the request of~~
9 ~~the child's lawyer; establishing that a child's lawyer is immune from civil~~
10 ~~liability for certain acts or omissions, except under certain circumstances;~~
11 ~~establishing that a child's lawyer is immune from civil liability to any party~~
12 ~~other than a represented child; making this Act an emergency measure in~~
13 ~~certain actions as a child advocate attorney or a best interest attorney; requiring~~
14 ~~a lawyer appointed under this Act to exercise ordinary care and diligence in the~~
15 ~~representation of a minor child; and generally relating to the appointment of a~~
16 lawyer to represent a minor child.

17 BY repealing and reenacting, with amendments,
18 Article - Family Law
19 Section 1-202
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2005 Supplement)

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

1

Article - Family Law

2 1-202.

3 (A) In an action in which custody, visitation rights, or the amount of support of
4 a minor child is contested, ~~OR THE COURT HAS REASON TO BE CONCERNED ABOUT~~
5 ~~THE WELFARE OF A MINOR CHILD~~, the court may:

6 (1) (I) appoint A LAWYER WHO SHALL SERVE AS A CHILD ADVOCATE
7 ATTORNEY to represent the minor child [counsel] AND who may not represent any
8 party to the action; ~~and~~ OR

9 (II) ~~SPECIFY THE ROLE AND DUTIES OF THE CHILD'S LAWYER IN~~
10 ~~ACCORDANCE WITH THE MARYLAND STANDARDS OF PRACTICE FOR~~
11 ~~COURT APPOINTED LAWYERS REPRESENTING CHILDREN~~ APPOINT A LAWYER WHO
12 SHALL SERVE AS A BEST INTEREST ATTORNEY TO REPRESENT THE MINOR CHILD
13 AND WHO MAY NOT REPRESENT ANY PARTY TO THE ACTION; AND

14 (2) impose against either or both parents [counsel] fees ~~FOR SERVICES~~
15 ~~RENDERED BY OR AT THE REQUEST OF THE CHILD'S LAWYER.~~

16 ~~(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EXCEPT FOR ANY~~
17 ~~ACT OR OMISSION COMMITTED WITH WILLFUL OR RECKLESS DISREGARD FOR THE~~
18 ~~BEST INTERESTS OF A REPRESENTED CHILD, A LAWYER APPOINTED UNDER THIS~~
19 ~~SECTION IS IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION IN THE~~
20 ~~COURSE OF PERFORMING THE DUTIES ASSIGNED.~~

21 ~~(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LAWYER~~
22 ~~APPOINTED BY THE COURT TO REPRESENT A CHILD UNDER THIS SECTION IS~~
23 ~~IMMUNE FROM CIVIL LIABILITY TO ANY PARTY OTHER THAN A REPRESENTED CHILD.~~

24 ~~(B) A LAWYER APPOINTED UNDER THIS SECTION SHALL EXERCISE ORDINARY~~
25 ~~CARE AND DILIGENCE IN THE REPRESENTATION OF A MINOR CHILD.~~

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~is an emergency~~
27 ~~measure, is necessary for the immediate preservation of the public health or safety,~~
28 ~~has been passed by a ye and nay vote supported by three fifths of all the members~~
29 ~~elected to each of the two Houses of the General Assembly, and shall take effect from~~
30 ~~the date it is enacted~~ shall take effect June 1, 2006.